



Appeal Decision

Site visit made on 22 February 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2021

Appeal Ref: APP/G5180/W/20/3261011

65 Craven Road, Orpington, Kent BR6 7RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Geoff Clarke against the Council of the London Borough of Bromley.
 - The application Ref 20/01734/FULL1, is dated 18 May 2020.
 - The development proposed is demolition of existing dwelling and erection of 3 two storey 4 bedroom detached dwellings each with a detached garage, with vehicular access to plot 65C from Craven Road and to plots 65A and 65B from Broad Walk.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing dwelling and erection of 3 two storey 4 bedroom detached dwellings each with a detached garage, with vehicular access to plot 65C from Craven Road and to plots 65A and 65B from Broad Walk at 65 Craven Road, Orpington, Kent BR6 7RU in accordance with the terms of the application, Ref 20/01734/FULL1, dated 18 May 2020, subject to the conditions listed in the attached schedule.

Background and Main Issues

2. This site has been subject to a previous planning application that resulted in an appeal against non-determination of that application. This appeal relates to a revised proposal that has been amended to reduce the height and bulk of the roofs of the dwellings to address the concerns of the previous Planning Inspector. An Ecology Report has been submitted in support of this planning application that also aims to address the concerns of the previous Planning Inspector relating to protected species.
3. This appeal has also been lodged following the Council's failure to determine the planning application. Subsequent to the appeal being lodged the Council reported the proposal to its Planning Committee. The Committee resolved that planning permission would have been granted, subject to conditions, had members been in a position to determine the application.
4. I have been provided with a copy of the Council's committee report that sets out what the Council considered to be the key issues of consideration. I consider the main issues relating to this appeal to be: -

- a) The effect of the proposed development upon the character and appearance of the area;
- b) The effect of the proposed development upon the living conditions of existing adjoining occupiers;
- c) Whether the proposed development would provided a satisfactory standard of residential accommodation for future occupiers;
- d) Whether the proposed development would provide satisfactory parking provision and/or its effect upon highway safety;
- e) The effect of the proposed development upon trees; and
- f) The effect of the proposed development upon protected species.

Reasons

Character and appearance

- 5. The roofs of the proposed dwellings have been reduced in height from that of the previous scheme. This is to address the previous Inspector's concern that the dwellings' roofs, being taller and bulkier than that of the adjacent dwellings on Broad Walk and Dorado Gardens, would result in a discordant and prominent form of development. The roofs have been reduced in height by just over 1m and the roof pitches have reduced from 45 degrees to 25 degrees. In addition, the front gables have been replaced with hipped roofs.
- 6. The proposed development would be situated within a residential area. Despite involving development of the garden of the existing dwelling at the appeal site, the development would not be out of keeping given the area is characterised by established residential development.
- 7. The neighbouring properties on Broad Walk are chalet style bungalows, although the surrounding area is characterised by predominantly two-storey development, although I saw there to be some bungalows interspersed. The proposed development would consist of two-storey detached dwellings similar to that of the existing development that predominantly makes up the character of the surrounding area. The surrounding area includes a degree of variety in the height and form of dwellings. The overall size and form of the proposed dwellings would reflect that of the existing surrounding two storey development. The design of the dwellings would assimilate with the varying designs of properties in the locality. Consequently, the proposed development would not be out of keeping or visually harmful within the context of the existing development within the area.
- 8. The London Plan gives an indicative level of density for new housing development. The Council has calculated the density of the proposed development at the site to be 13 dwellings per hectare which would be lower than the threshold set by the London Plan. Therefore, the proposal would not represent an overdevelopment of the site.
- 9. For these reasons, I conclude that the proposed development would not be harmful to the character and appearance of the area. As such, the proposed development would not materially conflict with Policies 3, 4 and 37 of the Bromley Local Plan that seek, amongst other matters, development to be of

high quality design and to have no unacceptable impact upon the character, appearance and context of the area in relation to the scale and density.

Living conditions of existing adjoining occupiers

10. The proposed dwellings would be visible from existing properties within the surrounding area and would be situated at an elevated position relative to existing houses in Dorado Gardens. However, given the degree of separation between the proposed dwellings and the properties in the surrounding area, including those at Dorado Gardens, the proposal would not result in unacceptable loss of outlook or privacy. The overall size and height of the proposed development, combined with the separation between respective developments, would not raise significant concerns relating to availability of light, shadowing or dominance in outlook in relation to those existing adjoining occupiers.
11. The previous Inspector found that the proposed dwellings would be set a significant and acceptable distance from the properties in Dorado Gardens. I have come to the same view on this matter.
12. For these reasons, I conclude that the proposed development would not be harmful to the living conditions of existing adjoining occupiers. As such, the proposed development would not materially conflict with Policy 37 of the Bromley Local Plan that seeks, amongst other matters, to protect existing residential occupiers from development that would be harmful as a result of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.

Standard of residential accommodation for future occupiers

13. The Technical housing standards – nationally described space standards set out minimum space standards to ensure that development is not cramped internally and that room sizes would ensure convenient and efficient room layouts can be achieved. Policy 4 of the Bromley Local Plan sets out the requirements for new residential development to ensure a good standard of living conditions. The Mayor's Housing Supplementary Planning Guidance sets out guidance in respect of the standard required for all new residential accommodation to supplement the London Plan policies.
14. The Council committee report indicates that each of the proposed dwellings would satisfy the minimum space standards for a two storey 4 bedroom 6 person dwelling and each would have a rear garden of at least 15m in depth which is considered acceptable for a family dwelling.
15. For these reasons, I conclude that the proposed development would provide a satisfactory standard of residential accommodation for future occupiers. As such, the proposed development would not materially conflict with Policy 4 of the Bromley Local Plan and the Mayor's Housing Supplementary Planning Guidance.

Parking provision and highway safety

16. The Council indicates that the London Plan and Bromley Local Plan policies encourage sustainable transport modes whilst recognising the need for appropriate parking provision. The proposal would provide parking provision for each property as part of the development. This parking provision is

adequate to serve each property and would prevent parking from the development migrating into the surrounding area. Consequently, I find that the proposed development would provide satisfactory parking provision and would not likely lead to future occupiers parking their vehicles on Craven Road or Broad Walk.

17. Two of the proposed dwellings would be accessed from Broad Walk. Neighbouring occupiers have questioned whether or not there is a legal right of passage over land at Broad Walk leading to the appeal site. The appropriate planning notices have been served on the owners of the land at Broad Walk that is in dispute. The issue in dispute is a legal matter between parties that is a separate matter to this appeal. A suitably worded planning condition can address the planning issues.
18. Local concern has been expressed to the driveway leading to the site being narrow highlighting that emergency services would find it problematic. However, it should be noted that it is an existing driveway that currently serves the existing dwelling. There is also concern expressed to the potential increase in traffic volume and implications for traffic flow in the surrounding area. The increase in traffic would be relatively low given the uplift of two dwellings at the site. This would be unlikely to cause significant highway safety issues or harm to the living condition of adjoining occupiers. Although it has been suggested that the development would make access to existing occupiers' garages difficult, there is no substantive evidence before me that would support this assertion. In regard to these matters the Council's technical adviser has not raised objection to the proposal on high safety grounds.
19. For these reasons, I conclude that the proposed development would provide satisfactory parking provision and would not have a significant harmful effect upon highway safety. As such, the proposed development would not materially conflict with Policies 30 and 32 of the Bromley Local Plan that set out the parking requirements for the Borough and seek development not to have a significant adverse effect upon road safety.

Trees

20. The Council's technical adviser has indicated that the application site is free of statutory tree protection and comments that the trees within the site are of limited amenity value or public significance. The proposed dwellings and associated garages would be placed to allow a reasonably amount of landscaping to be planted. A landscape scheme for the site can be required by the imposition of an appropriately worded planning condition (see condition 6 within the schedule of conditions below). Consequently, I conclude that the proposed development would not materially conflict with Policy 73 of the Bromley Local Plan that requires trees to be considered as part of development.

Protected species

21. Since the Inspector considered the previous appeal, an ecology survey has been carried out within the recognised bat roosting season and the results of the survey note that bat foraging and commuting activity takes place. Conditions regarding the provision of artificial bat roosts and adherence to the recommendations in the Ecology reports is recommended by the Orpington Field Club, the Council's technical adviser. I conclude that the proposed development would not materially conflict with Policy 72 of the Bromley Local

Plan as appropriate mitigation measures can be secured by condition to ensure that the proposed development would not have an adverse effect upon protected species (see conditions 10 and 11 within the schedule of conditions below).

Other matters

22. A discrepancy between the reference to the roof ridge height in the documents submitted in support of the application that is subject to this appeal has been highlighted. The appellant acknowledges this to have been a drafting error. In addition, it has been suggested that the driveway boundary may not be drawn correctly. I am satisfied that the drawings that support the proposal clearly show the height of the proposed dwellings and all the other aspects of the site and proposed development.
23. Concern has been expressed to the potential for the development to exacerbate drainage problems in the area. I note the Council's technical drainage adviser has not raised an objection to the proposal but recommends a drainage condition be imposed if planning permission is forthcoming (see condition 3 within the schedule of conditions below). Other concern has been raised to the site's waste management and collection, as well as building contractors parking vehicles on Craven Road. However, on the evidence before me there is no clear indication that future problems relating to these matters would occur. Some concern is also expressed to the potential of the properties to be placed upon artificial mounds. I consider this matter can satisfactorily be controlled by mean of imposing a suitably worded slab level condition (see condition 5 within the schedule of conditions below).

Conditions

24. I have considered the planning conditions suggested by the Council in light of paragraph 55 of the National Planning Policy Framework and the advice in the Planning Practice Guidance. I consider the standard time limit condition to be appropriate and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans that supported the planning application.
25. A surface water drainage condition is necessary in the interests of reducing risk from flooding. In the interest of the living conditions of existing occupiers a construction and environmental management plan is necessary. In respect of both these conditions I have removed the technical wording suggested by the Council as this can be dealt with as part of those details submitted to the Council. These conditions are fundamental to the acceptability of the proposal and therefore are necessary to be agreed before development takes place.
26. In the interests of the character and appearance of the area and the living conditions of adjoining occupiers conditions relating to slab levels, landscaping, refuse storage and lighting are required, noting that local concerns have been expressed to a number of these issues. I do not consider the landscaping condition justifies being a pre-commencement condition, however the slab levels condition is as it is fundamental to the development's acceptability. A materials condition is necessary in the interests of the character and appearance of the area. To protect ecology the recommendations of the Bat Survey and Ecological Reports should be adhered to and the requirement to install artificial bat roosts is necessary. To prevent parking inconvenience to

road users and to ensure road safety a condition relating to parking and turning is necessary. To protect the living conditions of the existing adjoining occupiers a condition requiring the windows in the flank elevations of the dwellings to be obscure glazed and non-opening is appropriate. Such a condition could address local concerns relating to overlooking and potential loss of privacy. I consider a condition requiring the cleaning of vehicle wheels during construction could be dealt with as part of the construction and environmental management plan condition.

27. The Council considers that the removal of Class A, B, C and E of Schedule 2 Part 1 of the Town and Country (General Permitted development) Order 2015 permitted development rights would be appropriate. I refer to the advice in the Planning Practice Guidance which state that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. I do not consider there to be exceptional circumstances here.

Conclusion

28. Having regard to the above the appeal should be allowed and planning permission granted.

Nicola Davies

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date of this decision.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans that supported the planning application that are hereby permitted.
3. Prior to the commencement of the development hereby permitted (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 development shall be carried out in full accordance with the approved surface water drainage scheme and the surface water drainage shall be retained as approved for the lifetime of the development.
4. Prior to the commencement of the development hereby permitted (including demolition) a construction and environmental management plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved construction and environmental management plan.
5. Prior to the commencement of the development hereby permitted (excluding demolition) details of the proposed slab levels of the buildings and the existing site levels shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved slab levels.
6. Prior to the first occupation of the development details of the landscape treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved landscaping details in the first planting season after completion or first occupation of the development, whichever is sooner. The details of the landscaping shall include:
 - a) A scale plan showing all existing vegetation to be retained and trees and plants to be planted which shall include use of a minimum of 30% native plant species of home-grown stock (where possible) and no invasive species;
 - b) Proposed hardstandings and boundary treatment;
 - c) A schedule detailing sizes and numbers of all proposed trees/plants;
 - d) Sufficient specification to ensure successful establishment and survival of new planting;
 - e) There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees; and

- f) Any new tree(s) that die(s), is/are removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within 5 years of planting shall be replaced by the same species.
- 7. No development above ground level shall take place until details of the materials to be used in the external surfaces of the development hereby permitted (including roof cladding, wall facing materials and cladding, window glass, door and window frames, decorative features, rainwater goods) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved materials prior to occupation of the first development.
- 8. Prior to first occupation of the development details of the refuse and recyclable materials storage shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved refuse and recyclable storage details and these storage facilities shall be put in place prior to first occupation of the development. The refuse and recyclable storage shall be retained as approved for the lifetime of the development.
- 9. Prior to first occupation of the development details of the lighting of the access drives and car parking areas shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved lighting details prior to first occupation of the development. The lighting shall be retained as approved for the lifetime of the development.
- 10. The recommendations of the Bat Survey and Ecological Reports must be fully adhered to including:
 - a) Trees and linear features around the site must be retained;
 - b) Any lighting must be directed away from tree and linear features and follow Bat Conservation Trust Guidelines; and
 - c) Any removal of shrubs/trees should be carried out between November and the end of February to avoid the birding nest season.
- 11. No development above ground level shall take place until details of artificial bat roosts to be included within the dwellings (which would be suitable for pipistrelle bats) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved artificial bat roost details prior to first occupation of the development. The artificial bat roosts shall be retained as approved for the lifetime of the development.
- 12. No occupation of the development hereby permitted shall take place until the parking spaces and/or garages and turning space have been laid out in full accordance with the approved plans and shall thereafter be retained and maintained for the purposes of parking and/or turning as approved for the lifetime of the development. No permitted development whether permitted by the Town and County Planning (General Permitted Development) Order (England) 2015 (or any Order

amending, revoking and re-enacting this Order) or not shall be carried out on the land or garages indicated or in such a position as to preclude vehicular access to the said land or garages.

13. Prior to occupation of the development the windows at first floor level in the flank elevations of the dwellings shall be obscure glazed to a minimum of Pilkington privacy Level 3 and shall be non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the internal floor of the room in which the window is installed. The first floor level flank elevation non-opening obscure glazed windows shall be retained and maintained as such for the lifetime of the development.

END OF SCHEDULE