
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/20/3256417

45 Starts Hill Road, Orpington BR6 7AS

- 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 Peter O'Sullivan of Alpha Estates (London) Limited against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/00151/FULL1, dated 27 November 2019, was refused by notice dated 30 April 2020.
 - The development proposed is demolition of existing detached dwelling and the erection of a single block containing 9 apartments with 9 parking spaces and associated landscaping and the creation of a new vehicle crossover to facilitate a new vehicle entrance to the south east of the site.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised by this appeal are: -
 - a) The effect of the proposed development on the character of existing adjoining properties;
 - b) The effect of the proposed development on the living conditions of existing adjoining occupiers, having particular regard to noise and disturbance, outlook and privacy;
 - c) Whether adequate parking and sightlines would be achieved; and
 - d) The effect of the proposed development upon biodiversity/protected species.

Reasons

Character and appearance

3. The appeal site is situated at a prominent site at the corner of Starts Hill Road and Pinecrest Gardens at the brow of a hill and at a spacious part of the highway where several junctions join Starts Hill Road. The existing dwelling and outbuilding have an elevated positioning to that of the adjacent crest in the highway. Abutting the site are bungalows sited at a lower land topography to that of the appeal site.

4. The proposed apartment development would be a substantially larger development than that of the existing dwelling and outbuilding at the site. The CGI image of the building within the street scene show this would be the case (as seen within the Height, Scale and Mass Statement submitted in support of the appeal). The proposal would host a large frontage and sizeable dual gabled end elevation. Being constructed closer to the front boundaries of the site than that of the existing dwelling this, along with its overall size, would increase the visual prominence of the development within the streetscape when compared to that of the existing development.
5. The Council has raised a concern about the density of development at the site which I note was a matter considered as part of an appeal relating to a development at London Square. Whilst density may be a tool to assess the quantum of development at a site and intensity of use, this is only one aspect of assessing the acceptability of development. However, this runs alongside achieving well-designed places that are sympathetic to the surrounding built environment. I acknowledge the appellant's point that local character is not fixed but evolves over time and that change should be accommodated. Nonetheless, the proposal needs to be considered within the context of its immediate environment and the existing development that it abuts.
6. Given the substantial size of the proposed development and its elevated relationship to the existing adjacent bungalows, the proposal would appear considerably oversized and have an overly dominant appearance within its immediate context. Taking design cues from the existing development within the surrounding area would not overcome this concern. Consequently, the proposal would appear markedly out of keeping within the context of the existing bungalows. For these reasons, the proposed development would be visually harmful. The visual harm would be apparent in public views from the spacious environs of Starts Hill Road and Pinecrest Gardens.
7. I have been directed to other developments that have taken place within the vicinity of the appeal site. The London Square development is a large scale comprehensive development situated opposite the appeal site and on the other side of Pinecrest Close. I saw that the height of the proposed building would be similar to that of some properties built within the London Square development. Nonetheless, that development is set at a lower ground floor level and the roof design does not create the impression of a bulky development within the street scene.
8. The appellant suggests that the London Square development presents a significant change to the character of the area and points out that it has established a different rhythm of development along a large portion of Starts Hill Road. Whilst this may be so, this does not justify the harm that I have identified to the street scene in relation to the substantial size of the proposed development and its visual harm within the context of the existing adjoining bungalows.
9. A photograph of 74 and 76 Starts Hill Road opposite has been provided within the Height, Scale and Mass Statement submitted in support of the appeal. Whilst this provides an illustration of the variety of property types within the area and at the opposite side of Starts Hill Road, the context of the development is different to that of the appeal site and, therefore, would not justify the proposed development at the appeal site.

10. The flatted development at The Old School House (80 Starts Hill Road) hosts a dual pitch roof by design. Nonetheless, the development at The Old School House does not sit upon a prominent site on the brow of a hill. Furthermore, the dual pitch does not face onto the highway unlike the dual pitched gable of the proposed development. I also note that that development involved the conversion of existing buildings rather than a new build scheme. Again, I find that the context of that development at the opposite side of Starts Hill Road is different to that of the appeal site.
11. I have also been directed to developments at Wellclose and Middlewood Court, however those developments are not in the immediate environment of the appeal site. The Council has directed me to developments at Gravel Pit Way and Crofton Lane, Orpington. The appellant highlights that the development at Gravel Pit Way is of a different scale to that of the proposal before me and that the development at Crofton Lane was greater in number of units to that sought here. The appellant considers that different conclusions can be reached in respect of those cases cited by the Council. I see no substantive reason that might lead me to come to a different view in respect of these cases.
12. For those reasons set out above, I conclude that the proposed development would be harmfully out of character with the existing adjoining properties. The proposal would, therefore, conflict with Policies 1, 4 and 37 of the Bromley Local Plan. These policies seek, amongst other matters, new development to achieve a high standard of design and layout and to respect local character, spatial standards, physical context, density and to positively contribute to the existing street scene.

Living conditions

13. Much of the existing vegetation within the appeal site adjacent to 45A Starts Hill Road would be removed to facilitate the provision of a parking courtyard within the site associated with the proposed development. Whilst the appellant suggests that a hedgerow/vegetation along the boundary could be provided, I consider this unlikely to be achievable given the narrow space available between the parking courtyard and the boundary.
14. A Landscape Enhancement Layout has been submitted in support of the appeal (drawing number P110 Rev P1), however that plan appears to show a larger gap between the parking courtyard and the boundary of 45A Starts Hill Road to that shown on the proposed Site Location Plan (drawing number P102 Rev P1). I, therefore, cannot be certain that the Landscape Enhancement Layout is accurate. Therefore, I have limited my considerations to those plans upon which the Council made its determination.
15. At present the domestic garden of the existing dwelling at the appeal site abuts the residential garden of 45A Starts Hill Road. The proposed parking area would be sited directly abutting the boundary of 45A. The parking spaces would create a degree of activity over the course of the day and evening associated with the residential occupation of the development. This would create noise from car engines, cars manoeuvring, doors closing, and so on, that would cause disturbance to the existing occupiers reducing the enjoyment of their home and garden. Although the existing highways in the area would create a degree of ambient background traffic noise, the proposal would inject uncharacteristic traffic noise and disturbance into the more general tranquillity of the residential rear garden of 45A. This would diminish the existing

occupiers' enjoyment of their private garden and patio. Although the appellant has provided a table of outdoor ambient sound levels it has not been explained how this should be applied to the proposed development.

16. As noted above, existing vegetation would be lost at the boundary with 45A Starts Hill Road. The limited space between the parking courtyard and the boundary would be unlikely to host and/or sustain any meaningful vegetation that might reduce noise disturbance. Given this, I do not consider that this could be satisfactorily mitigated by the imposition of a landscape planning condition.
17. With the loss of the boundary vegetation, windows serving habitable rooms and balconies within the upper stories of the proposed development would create observation from the proposed development into the rear private outdoor space relating to 45A and toward the glass conservatory at the rear of the property. These are living spaces in which the occupiers of this adjacent dwelling are likely to spend a fair amount of their time, as are habitable rooms within the proposed development. The parking courtyard creates a separation between the respective developments. Nonetheless, the proposed development, being positioned at a higher land level to that of 45A would increase the potential for observation toward 45A to take place. Overlooking of the private spaces of this existing property would be harmful to the living environment that the neighbouring occupiers should reasonably expect to enjoy.
18. There would be a degree of space between the parking courtyard and the boundary with 2 Pinecrest Gardens in which to either retain existing vegetation or provide new planting. Despite the lower siting of 2 Pinecrest Gardens to that of the proposed development, I consider sufficient landscaping could be achieved within this space that would prevent harmful observation of 2 Pinecrest Gardens from the proposed development occurring.
19. Furthermore, there would be sufficient separation between the proposed development and both 45A Starts Hill Road and 2 Pinecrest Gardens that would ensure the development would not appear overly dominant in the outlook from the rear gardens/living spaces of the occupiers of both these existing properties.
20. Although I have found the proposal to be acceptable in respect of outlook from the existing adjoining dwellings, for the reasons set out above, I conclude that the proposed development would be harmful to the living conditions of existing adjoining occupiers, particularly in regard to noise, disturbance and privacy. The proposal would, therefore, conflict with Policies 4 and 37 of the Bromley Local Plan. These policies seek, amongst other matters, development to respect the amenity of occupiers of neighbouring buildings and ensure they are not harmed by noise and disturbance or inadequate privacy.

Parking and sightlines

21. Nine parking spaces would provide one off-road parking space per dwelling within the site. Policy 30 Local Plan requires a minimum of one parking space per unit. The 2011 census reveals a car ownership of 1.57 cars per dwelling in the immediate area and although based on slightly larger units indicates there to be a high car ownership in the area. It was clear from my visit that there is a high level of demand for on-street parking in the area. There would be little

scope for the parking of delivery vehicles and visitors generated by the proposed development to be absorbed within the on-street parking in the immediate vicinity of the appeal site. Nonetheless, the proposal would meet the minimum parking requirements set out within Policy 30 of the Bromley Local Plan and, as such, the proposed parking provision put forward would accord with the adopted development plan.

22. Policy 32 of the Bromley Local Plan seeks to prevent significant adverse effect upon road safety. To support the appeal the appellant has provided a drawing (P108) illustrating sightlines either side of the proposed access. However, the Council highlights that the southern sightline is drawn to the middle of the carriageway, and this does not accord with Manual for Streets guidelines which indicates it should be taken to the nearside kerb line. Furthermore, even if the sightline was amended to accord with the guidelines, the sightline would not be within the appellant's ownership/control. Whilst the appellant says the existing vegetation within the sightline that would impede visibility of on-coming traffic is not protected, this does not necessarily provide the appellant the right to cut it back or remove it. Therefore, based on the evidence available to me, I am not satisfied that adequate sightlines could be provided. As such, it has not been satisfactorily demonstrated that the proposed development would not adversely impact road safety.
23. The Council has raised concern as to whether a refuse vehicle could access the site, however I note this matter did not form part of the Council's third reason for refusal. Nonetheless, the appellant has provided a swept path analysis that shows a standard refuse vehicle reverse movement into the site, although the Council contend that the refuse vehicle would be a longer vehicle than used within the analysis. Notwithstanding this, it appears to me that the proposed development could reasonably be served by a refuse vehicle.
24. Whilst I have found in favour of the appellant in respect of the adequacy of parking at the site, for these reasons set out above I conclude that it has not been demonstrated that satisfactory sightlines could be achieved, and this could potentially lead to highway safety being compromised. The proposal would, therefore, conflict with Policy 32 of the Bromley Local Plan which seeks development not to have a significant adverse effect upon road safety.

Biodiversity/protected species

25. At the planning application stage, the Council considered that a biodiversity mitigation strategy could not be accurately informed without further surveying for the presence of bat roosts (in summer months), badger setts and great crested newts. The appeal has however been supported by a survey, statement and report relating to these protected species, as well as a Landscape and Ecological Management Plan. This work has confirmed no emerging bats, no significant badger presence at the site and a low impact on great crested newt habitat.
26. The Council has consulted its biodiversity specialist adviser and the Orpington Field Club Biodiversity Partnership Officer. It is confirmed that this further information would overcome the previous concerns subject to appropriate conditions being imposed if planning permission were forthcoming. On this basis the Council has withdrawn its fourth reason for refusal. I have no substantive reason given the evidence available to me that would lead me to come to a different conclusion on these ecology matters. Consequently, this

has overcome the conflict with Policies 72 and 79 of the Bromley Local Plan that seek, amongst other matters, development to protect and actively manage nature conservation interest and enhance biodiversity across the Borough.

Other matters

27. The Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, the provision of footnote 7, paragraph 11 d) ii of the National Planning Policy Framework (the Framework) should be applied.
28. The development would provide benefits in terms of delivering an additional nine homes that would make a small contribution to local housing supply. The proposal would re-use and make efficient use of this small site to which the London Plan encourages delivery of as a strategic priority and that would represent incremental densification within Boroughs. Nevertheless, I have found that the proposal would be harmful to the character and its relationship with the existing adjoining properties, the living conditions of existing adjoining occupiers and would not provide adequate sightlines raising concerns in respect of highway safety.
29. I, therefore, conclude that the adverse impacts would significantly and demonstrably outweigh the modest benefits provided by the scheme when considered against development plan policies and the Framework when read as a whole. Consequently, the presumption in favour of sustainable development does not apply in this case.

Conclusion

30. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR