The Planning Inspectorate

Appeal Decision

Site visit made on 21 December 2020

by Euan FS Pearson BA(Hons) BTP FRGS MRICS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th April 2021

Appeal Ref: APP/G5180/D/20/3253200
The Vicarage, 15 St James's Avenue, Beckenham BR3 4HF

- 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 Mark Trevett of Diocese of Rochester against the decision of London Borough of Bromley.
- The application Ref 19/03068/FULL1 dated 28 June 2019, was refused by notice dated 2 April 2020.
- The development proposed is relocate playground and erect 1 No. dwelling with associated landscaping and car parking.

Decision

1. The appeal is allowed and planning permission is granted to relocate playground and erect 1 No. dwelling with associated landscaping and car parking at The Vicarage, 15 St James's Avenue, Beckenham BR3 4HF, in accordance with the terms of application Ref DC/19/03068/FULL1, dated 28 June 2019 and subject to the following conditions:

   1) The development hereby permitted shall begin no later than 3 years from the date of this decision.

   2) The development herby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 001 Site Plan Existing, 002 Rev A Site Block Plan, 100 Rev A Proposed Site Layout, 101 Rev A Floor Plans Proposed, 200 Rev A Elevations Proposed, and 300 Rev A Sections Proposed.

   3) Prior to removal of any tree, full details of replacement tree planting, and measures to protect remaining trees during construction, shall be submitted and approved in writing by the local planning authority, and all measures and tree planting shall be carried out in accordance with those details.

   4) If within a period of 5 years from the date of the planting of any tree, or any tree planted in replacement for it, is removed, uprooted, destroyed or dies, another tree of the same species and size, as originally planted, shall be planted at the same place, unless the local planning authority gives it written approval to any variation.

Application for costs

2. An application for costs was made by Diocese of Rochester against the London Borough of Bromley. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the visual amenity of the surrounding area with particular reference to the effect on trees.

Reasons

4. The appeal site is the Vicarage and its generous curtilage, associated with the neighbouring St John's Church of England and halls. Views of the appeal site along St James's Avenue are partially obscured by mature trees within its boundaries and those rooted in the public footpath on both sides of this section of the Avenue. All these trees, collectively, make a positive contribution to the amenity of the surrounding area.

5. It is proposed to demolish four small garages/outbuildings within the curtilage, near the boundary with No. 17A St James's Avenue, and erect a two storey dwellinghouse with car parking, utilising the existing driveway. An existing area for children's play would be given over to garden ground, and that facility re-provided to the south of the Vicarage.

6. The Council considers the design, scale and siting of the proposed dwellinghouse acceptable, as is the relocation of the play area. I see no reason to disagree. Construction of the proposed development would require the removal of two trees (T4 and T5) covered by Tree Protection Order No. 2680 (TPO). The Council considers this unacceptable, along with the potential impact on tree T6.

7. The TPO was made in October 2019 following receipt of application DC/19/030368/FULL1 by the Council. The TPO does not cover all the trees within the appeal site, only those 6 in close proximity to the proposed dwellinghouse. The purpose of a TPO is to protect trees in the interests of amenity, not as an instrument to prevent development.

8. I consider that all the mature trees within the appeal site and those rooted in the public footpath, collectively, make a contribution to amenity, specifically visual amenity. Trees T4 and T5 are centrally located, set back some distance from the public footpath. Their loss and subsequent replacement, therefore, will not have a significant impact on visual amenity, in particular when viewed from the public realm. Protective measures, where necessary, as suggested in the appellant's Arboricultural Impact Assessment (AIA) of October 2019, can be employed in relation to the other trees. Furthermore, the AIA classifies T4 has having 'no reasonable longevity' and T5, 'limited longevity'.

9. Taking in account the limited visual amenity benefits of T4 and T5, as well as the findings in the AIA, I do not consider that the proposed development would be contrary to the provisions of the development plan that seek to protect trees and the landscape, generally. The fact that suitable and appropriate protective measures are set out in the AIA, and can be the subject of a condition, reinforces my view that the proposed development is acceptable.

10. Therefore, the proposal complies with policies 73 and 77 of the Bromley Local Plan 2019. Among other things, these require new development to take account of existing trees and provide suitable replanting in the interest of safeguarding the local landscape and visual amenity.

Other Matters

11. Issues of flood risk, parking, noise/disturbance from the play area, need/future of the Vicarage, overlooking/privacy, and scale of development have been raised by third parties.

12. The appellant has produced a Flood Risk Assessment and Environment Agency has raised no objections. The proposed development provides off-street car parking utilising an existing driveway.

13. The existing area for children's play is being relocated not resulting in any significant impact on residential amenity. The scale of development is not out of character having regard to existing residential properties on the Avenue.

14. The proposed dwellinghouse, and its windows, would be located sufficiently far enough away from boundaries, so as not to significantly impact on the living conditions of neighbouring occupiers. The future of the Vicarage is a matter outwith the scope of this appeal. Therefore, none of these issues change my conclusions.

Conditions

15. I have considered the need for conditions against the advice on conditions set out in the National Planning Policy Framework and the Planning Practise Guidance. I have imposed standard conditions relating to the commencement of development and specifying the relevant plans in order to provide certainty. I have also included conditions requiring replacement tree planting in the interests of visual amenity.

Conclusion

16. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be allowed.

Euan FS Pearson

INSPECTOR