



Appeal Decision

Site Visit made on 24 August 2021

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2021

Appeal Ref: APP/G5180/W/21/3268242

Land to Rear of 83 Hayes Way, Beckenham BR3 6RR

- 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 Umar Elahi against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/02202/FULL1, dated 17 June 2020, was refused by notice dated 14 October 2020.
 - The development proposed is "Full planning application for the demolition of the existing carport and the extension and conversion of existing garage to a 2 bed dwelling at land rear of 83 Hayes Way, with provision of bin and bike store and parking facilities"
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on: (i) the character and appearance of the area, with particular regard to siting, design, and a protected tree; and (ii) highway and pedestrian safety.

Reasons

Character and Appearance

3. The appeal site is a long plot with a large detached dwelling and off-street parking fronting onto Hayes Way, and a detached single storey garage and off-street parking area at its rear, accessed off Hayes Lane. It is located within the Park Langley Area of Special Residential Character ('the ASRC'), which is described as comprising almost exclusively large detached two storey houses on generous plots, which is a coherent, continuous, and easily identifiable area.
4. I noted examples of single storey buildings within the rear gardens of some properties along Hayes Way, many of which are also accessible from Hayes Lane. Despite the presence of these buildings, the large plots remain appreciable and maintain the spaciousness of the locality.
5. The proposed dwelling would replace an existing single storey flat roofed garage. It would have a low pitched roof and would stretch across almost the full width of its plot. It would appear as an uncharacteristically small dwelling within a small, cramped plot, at odds with the prevailing pattern of development. I noted other bungalows of similar siting and scale at 76 and 90 Hayes Lane and a large outbuilding in the rear garden of 87 Hayes Way, but they are exceptions to the overriding open nature of surroundings along Hayes Way and this part of Hayes Lane. In combination with those buildings, the

proposal would further erode the attractive spacious qualities of its surroundings and harm the character and appearance of the area.

6. The existing garage abuts the appeal site boundary shared with 85 Hayes Way. A mature Oak tree the subject of a Tree Preservation Order, identified as 'T2' within the appellant's Arboricultural Report¹, is located within the rear garden of No.85, alongside the existing garage. A significant proportion of T2's canopy overhangs the existing garage and would need to be pruned to accommodate the proposed building. The Arboricultural Report describes the extent of pruning required as relatively minor, not exceeding 2m in length, which it is claimed would not have a significant effect on the tree in terms of its health or appearance. In my view, the extent of pruning to T2 set out in Table 4 of the Arboricultural Report, would reduce its aesthetic value.
7. The Arboricultural Report also explains that due to the proposal relying on the existing footprint of the garage, incursions into the Root Protection Area (RPA) of T2 would be minimal when expressed as a percentage of the total RPA. This is based on the expectation that it is unlikely any roots from T2 would be beneath the existing garage. It is therefore claimed the level of incursion caused by the proposed foundations² would prevent any long-term unacceptable levels of damage or disturbance to T2's rooting environment.
8. The Council is satisfied that the description of the proposed foundations would go some way to address the proposal's below-ground impact, but remains concerned that construction activity associated with the proposal would harm T2's rooting environment. Aside from descriptions of the proposed foundations, limited information has been provided in respect of how construction activity within T2's RPA could proceed without causing any unacceptable harm to the tree's roots. I am satisfied that such details could be required by condition, to be approved by the Council prior to the commencement of development.
9. However, the Council is also concerned that the proximity of the proposed dwelling to T2 would lead to severe pruning pressure, detrimental to the tree. Although the tree currently overhangs the existing garage and secondary parking area, my view is that the proposal would result in increased pressure for substantial pruning of T2 due to its resulting relationship with the proposed living accommodation and parking area.
10. T2 makes a significant positive contribution to the character and appearance of the area, especially in wide views along Hayes Lane. I noted a number of mature trees within the large rear gardens of properties along Hayes Way, within the ASRC which make a valuable contribution to the pleasant leafy and spacious character of the area. The necessary pruning of T2 to accommodate the proposed dwelling would harm this character. Any further pressure to significantly prune or remove the tree could cause further harm to this established character and appearance of the area. I am not therefore convinced that the proposal would protect the long-term retention of T2, which would cause unacceptable harm to the tree and the character and appearance of the area.

¹ W.J. Kent Tree Consultancy Limited Arboricultural Report reference HW 03.20 (March 2020)

² Mini-piles and ground beams as opposed to a traditional trench fill system

11. The proposal would therefore harm the character and appearance of the area on account of its poor siting and design and impact on a protected tree, contrary to Policies 3, 4, 37, 44 and 73 of the Council's Local Plan³ and Policy D3 of the London Plan⁴. These require, amongst other things, new dwellings to respect the character, appearance and context of the surrounding area, complementing the scale, proportion, form and layout of adjacent buildings and areas, taking account of existing trees, and enhancing and strengthening the special and distinctive qualities of Areas of Special Residential Character.

Highway and Pedestrian Safety

12. The existing dwelling would retain off-street parking on its Hayes Way elevation. The appeal site already benefits from a vehicle crossover from Hayes Lane providing access to an existing parking area at the rear of the appeal site. This would be retained for the proposed dwelling, but the existing parking area would be reduced in size. The Council claim the submitted plans fail to show the proposed parking layout would provide sufficient turning space to allow vehicles to enter and exit the site in a forward gear due to the absence of a swept path analysis. The appellant suggests details relating to the parking layout could be required by condition.
13. The parking area at the front of the proposed dwelling would not be particularly constrained and the submitted plans show it would be of sufficient size to comfortably accommodate one vehicle. The Council have not identified any minimum or maximum parking standards applicable to the proposal and I am aware that there could be a number of options open to the appellant to ensure vehicles could enter and exit the site in a forward gear.
14. On account of the large size of this proposed parking area, I am satisfied that details showing how vehicles could enter and exit the site in a forward gear could be required to be approved by the Council prior to the commencement of development. The proposal would therefore accord with Policy 32 of the Council's Local Plan, which requires road safety to not be significantly adversely affected.

Other Matters

15. The Council is unable to demonstrate the supply of housing sites required by the Framework⁵. In cases such as this, the most important policies are deemed to be out of date and Paragraph 11(d)(ii) of the Framework states that planning permission should be granted for applications involving the provision of housing unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. I have identified harm relating to the effect of the proposal on the character and appearance of the area, and whilst I may attribute less weight to the most important policies by virtue of them being out of date, harm arising out of the proposed development would not be as affected. This harm would be significant and long lasting and as such I would ascribe substantial weight to it.
16. The proposal would provide a social benefit from the provision of one two-bedroom dwelling, with associated economic benefits created during the

³ London Borough of Bromley Local Plan (2019)

⁴ The Mayor of London's London Plan (2021)

⁵ National Planning Policy Framework (2021)

construction phase of the proposal and from the occupation of the dwelling. These would be modest benefits to which I would assign moderate weight. The proposal is capable of avoiding harm to highway and pedestrian safety, but this lack of harm is not a benefit. The Framework confirms that good design is a key aspect of sustainable development, which should function well and add to the quality of the area over the lifetime of the development. It is therefore sufficiently clear to me that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not therefore constitute sustainable development for which the presumption in favour applies.

Conclusion

17. The proposal would harm the character and appearance of the area in conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

L Douglas

INSPECTOR