



Appeal Decision

Site visit made on 11 October 2021

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 21st October 2021

Appeal Ref: APP/G5180/W/21/3271500

9 Bonar Place, Chislehurst, Kent BR7 5RJ

- 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 Albemarle Bonar Ltd against the Council of the London Borough of Bromley.
 - The application Ref DC/21/00146/FULL1, is dated 3 January 2021.
 - The development proposed is demolition of existing family dwelling and construction of three new single family dwellings.
-

Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The Council have indicated that, had they made a formal decision on the proposal, it would have been to refuse planning permission. In their statement they have provided six draft reasons for refusal. These are areas of disagreement between the Council and the Appellant that therefore form the main issues of this decision, although in reaching a final conclusion I have paid regard to the proposal as a whole. In light of my conclusions on the main issues, it is not necessary for me to provide detailed reasoning relating to other planning issues.
3. The Appeal follows submission of a planning application arising from a previous refusal of permission for residential development. I have paid regard to this decision in so far as it has been brought to my attention, whilst also determining this appeal on its own merits.
4. Planning law requires that applications for planning permission be determined in accordance with the development plan for the area, unless material considerations indicate otherwise. In this case, the development plan comprises the Bromley Local Plan (Local Plan) and the London Plan. The National Planning Policy Framework (the Framework) is a material consideration.

Main Issues

5. The main issues in the appeal are:

- The effect on the character and appearance of the surroundings.
- The effect on the living conditions of occupants of nearby properties, with particular reference to potential overbearing impacts on properties to the east and southern boundaries.
- Whether a satisfactory standard of accommodation would be provided for future occupants of the development.
- The acceptability of the proposed car parking provision in terms of its effect on the local highway network.

Reasons

Character and appearance

6. The site adjoins both Bonar Place and Elmstead Lane. The surroundings are residential in character, in particular Bonar Place which typically features houses of modern suburban appearance with gardens. Properties are arranged around a cul-de-sac with the site at a corner in the turning head, currently with mature planting lining the boundary with the road.
7. Elmstead Lane is less obviously suburban in character due to the influence of Elmstead Woods and the function the road plays as a thoroughfare for traffic. A greater sense of enclosure to Elmstead Lane also results from the relatively high and blank rear boundary walls (with some gates) that serve properties on Bonar Place, the site included.
8. The sloping topography of the surroundings informs the character of both Bonar Place and Elmstead Lane.
9. In assessing the proposal it is necessary to consider the effects on Bonar Place and Elmstead Lane distinctly. This is because the characteristics of the 2 areas are quite different, as explained above.
10. Starting with Bonar Place, the main public view of the site is from the road itself and is mostly from lower ground. There are also extensive private views available from various properties in the cul-de-sac, although I acknowledge that maintaining private views in perpetuity is not a primary purpose of the planning system.
11. The proposed building would occupy a larger area of the plot than the existing. In doing so, it would reduce the area of land around the building and bring built form closer to the boundary with the Numbers 8 and No 10. The result would have a negative impact on the prevailing character of Bonar Place where generous gardens and spaciousness between buildings is a key feature.
12. In terms of scale, the proposed building would be wider than most other properties on Bonar Place and also taller. The perception of height as viewed from much of Bonar Place would be reduced to a degree as the new building would be seen in the context of No 10 and 11 which sit on higher ground, however this feature would also disrupt the rhythm of built development on

Bonar Place which rises with the topography and reinforces the sloping nature of the surroundings.

13. The perceived width and overall bulk of the building would be reduced to a degree by the sloped roof form and setback in the front building line. However, as these measures are most pronounced on the northern side of the building, they would not adequately reduce the visual impact of the proposal as seen from much of Bonar Place where the southern end and side of the building would be most prominent.
14. Overall, the footprint and scale of the proposed building would combine to produce a cramped form of development that would not assimilate well into the surroundings in a prominent location at the head of the cul de sac. The proposed building would have a distinctive character, however it would not be one that would complement or enhance the area. It would instead be incongruous within the context of Bonar Place.
15. I do not find fault with the adoption of what is referred to as a contemporary approach by the Appellant. Buildings within Bonar Place exhibit sufficient variation to allow a wide variety of potential building treatments to be accommodated. My concerns instead lie with the footprint and scale of the proposed building and its relationship with the Bonar Place surroundings, rather than matters of detailed design such as building treatment.
16. Turning to effects on the Elmstead Lane side. The proposal would be seen within the context of the apartment block of 1-11 The Acers and a character that is different to that on Bonar Place. It would provide an appropriate set back from the road and standard of detailed design, with facing windows that would generate new views on to Elmstead Lane that would promote a more welcoming street scene. Whilst formation of a vehicular gate would disrupt the consistency of the rear boundary wall that serves properties on Bonar Place, this feature is not one worthy of retention. Overall, the proposal would be acceptable as it relates to Elmstead Lane.
17. In assessing the proposal against the requirements of Policies 4 and 37 of the Local Plan I have considered their consistency with Policy H2 of the London Plan, which requires Development Plans to recognise that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites.
18. It is important to avoid over applying the Local Plan policies in a way that would in practical effect frustrate any change beyond maintaining the status quo and may be inconsistent with the requirements of the London Plan. The balance between achieving development that is sympathetic to local character whilst not preventing or discouraging appropriate change is also one that is recognised in Paragraph 130 (c) of the Framework, which I have paid regard to in reaching a view on whether the proposal strikes an appropriate balance.
19. I give limited weight to the Council's position that Bonar Place was specifically designed to prevent conflicts in terms of character and appearance and amenity. This point is unevidenced and logically risks leading to a line of thinking that automatically prioritises preservation on principal over encouraging appropriate change.

20. The specific typology of housing proposed has had limited influence on my conclusions on this issue, which are focused on the effects on character and appearance. During my site visit, I visited other sites referred to in the Appellant's statement. However, as none of these fall within the context of the current site, they have not significantly influenced my conclusions.
21. Overall, for the reasons discussed in relation to the relationship with Bonar Place, the specifics of the proposal would not result in the standard of design that both the Local Plan and London Plan seek to achieve. It would also not meet the aims of the Framework in terms of fostering well designed and beautiful places
22. As such, the proposal would have a harmful effect on the character and appearance of the surroundings. Consequently, there is conflict with Policies 4,8 and 37 of the Local Plan and Policies D1, D3, D6 and H2 of the London Plan which collectively seek to ensure that new development achieves a good standard of design.
23. Policy 1 of the Local Plan is referred to in the Council's draft reasons for refusal. The direct relevance of the policy to the proposal is not explained in their statement beyond illustrating the make up of housing supply, which the proposal would contribute towards as acknowledged in my conclusions.

Living conditions - neighbours

24. The Council's draft reasons for refusal make reference to serious adverse and overbearing effects on properties at No 8 and 10 Bonar Place, which share the east and southern boundaries with the site.
25. In both cases the occupiers of these properties would experience a greater sense of built presence due to the location of the proposed building, which would be larger than the existing house and closer to the respective boundaries.
26. The effects would be most keenly felt in the areas closest to the site to the sides of No 8 and 10. The experience to the front and rear of both these properties, including from primary habitable room windows, would not be materially affected by the proposal due to their orientation in relation to the site and the relatively open aspect that would remain. Overall, given the non primary nature of the areas most likely to be affected, an increase in enclosure resulting from the proposal would not lead to a significant and unreasonable decrease in the living conditions of the occupiers of these properties
27. As such, I am satisfied that the proposal would not have a harmful effect on the living conditions of occupants of nearby properties, with particular reference to potential overbearing impacts on properties to the east and southern boundaries. Consequently, there is no conflict with Policies 4, 8, and 37 of the Local Plan and Policies D1, D3, D6, and H2 of the London Plan in relation to respecting the amenities of occupiers of neighbouring buildings as a component of achieving a good standard of design.

Living conditions – future occupants

28. The Council's draft reasons for refusal identify concerns relating to living conditions for future occupants arising from the external entrance approaches and provision of outdoor amenity space.
29. The proposal would include pedestrian access from both Elmstead Lane and Bonar Place. The access from Bonar Place would be direct from the street, whereas the Elmstead Lane access would be gated. The proposal therefore makes provision for both front and rear access to the dwellings.
30. Access such as that proposed is a relatively traditional configuration which most users of the development would be capable of interpreting without difficulty. As such, the access would not be unduly confusing or lead to poorly identifiable arrangements resulting in unacceptable living conditions for future occupants of the development.
31. Turning to outdoor amenity space, whether the external space provision meets the size standards in the London Plan is not a matter of disagreement between the Appellant and the Council. Whilst parts of the spaces are irregular in terms of shape and partly sited to the side of the site, the size and standard of provision would be sufficient and practical to meet the likely needs of users of the development.
32. I acknowledge that the Council refer to the adequacy of provision for wheelchair housing in their statement of case, although they do not include this in their draft reasons for refusal. Notwithstanding this, the Council have not provided any more detailed evidence to support their indication that the size of the units might be inadequate in terms of adaptability.
33. In conclusion on this issue, the proposal would provide a satisfactory standard of accommodation for future occupants of the development. Consequently, there is no conflict with Policies 4 and 37 of the London Plan and Policies D1, D3, D6, and H2 of the London Plan which collectively seek to ensure that good standards of accommodation and living conditions for future occupants is delivered in the design of proposals.

Parking and highways

34. I have paid regard to the Appellant's Transport Statement, which includes an illustrative swept path analysis indicating how vehicles using each of the basement car parking spaces may be able to arrive and leave the development in forward gear. Whilst manoeuvrability for cars within the basement area would be tight in places, in the absence of more detailed evidence from the Council about their concerns, I am satisfied on the basis of the information provided that there is a relatively low risk of car users choosing to reverse on to Elmstead Lane and that the parking provision would be otherwise adequate to serve the development.
35. Measures relating to the visibility splays, sightlines, gradient of the drives and parking areas, and managing the effects of construction on the highway network could be the subject of planning conditions. The Council have not satisfactorily explained what a road safety audit would add on top of the

information that has already been provided or could be provided by condition if necessary.

36. In conclusion on this issue, the proposed car parking provision would have an acceptable effect on the local highway network. Consequently, there is no conflict with Policy 32 of the Local Plan or Policy T4 of the London Plan in relation to road safety.

Other Matters

37. The Appellant's points relating to how the planning application was processed and pre-application engagement was handled are not issues that go to the heart of the planning merits of the proposal, beyond providing a right of appeal in respect of failing to determine the application within statutory deadlines. These issues are therefore best addressed by the Council initially.

Conclusions

38. The proposal would have a harmful effect on the character and appearance of the surroundings, with associated conflict with policies in the Local Plan and London Plan. These policies are consistent with the aims of the Framework in relation to fostering well designed and beautiful places. Paragraph 126 of the Framework is clear that creating high quality, beautiful buildings and places is fundamental to what the planning and development process should achieve.
39. I acknowledge the steps the Appellant has taken to respond to previous proposals that were considered by the Council. This in itself is not a matter that attracts weight in my decision as I must decide this appeal on its own merits. I also accept that some of the issues under consideration involve subjective judgement for a decision maker. Nevertheless, it falls to me to provide that judgement independently on the evidence available and without bias towards any party.
40. I acknowledge the benefits that would flow from the proposal. Whilst I have no specific evidence in relation to housing supply, the 3 dwellings proposed would naturally support the Government's objective of significantly boosting the supply of homes. At paragraph 69 the Framework recognises the contribution that small and medium sized sites can make. For these reasons, I attribute some weight to the delivery of housing.
41. Maximisation of a sites potential and contribution to local character and distinctiveness are not matters that attract positive weight for the reasons discussed above in relation to effects on character and appearance. Whilst I find no specific harm resulting from the accessibility of the proposal I also have limited evidence that access would be improved over the existing situation. As such, this is a matter that does not attract material weight. Enhanced sustainability is a matter that is not extensively evidenced and can therefore only attract limited weight as a general benefit of the scheme that would arise from any redevelopment proposal.
42. Weighing these matters up, given the importance placed on creating high quality, beautiful buildings and places in the Framework, the benefits of the proposal do not constitute material considerations that outweigh the harm to the character and appearance of the surroundings.

43. The proposal would not accord with the development plan. I have no evidence to suggest that relevant development plan policies are out of date. The presumption at Paragraph 11 of the Framework does not therefore apply.
44. As such, for the above reasons and having regard to all other matters, I conclude that the appeal should be dismissed and planning permission should be refused.

D.R. McCreery

INSPECTOR