
Appeal Decisions

Site visit made on 7 December 2021

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 12/01/2022

Appeal A : Ref: APP/G5180/W/21/3277605

94 Towncourt Lane, Petts Wood, Orpington BR5 1EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr William Salam against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/04587/OUT, dated 12 November 2020 , was refused by notice dated 9 April 2021.
 - The development proposed is demolition of existing house and garages and construction of 3 X detached houses.
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Appeal B : Ref: APP/G5180/W/21/3266627

94 Towncourt Lane, Petts Wood, Orpington BR5 1EJ

- 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 William Salam against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/01921/FULL1, dated 21 May 2020, was refused by notice dated 4 August 2020.
 - The development proposed is erection of a two storey detached house and a pair of semi detached houses.
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Decisions

1. Appeal A : is dismissed.
2. Appeal B : is dismissed.

Procedural Matters

3. Appeal A seeks outline permission for three detached houses, along with the demolition of the existing house and garages on the site. Appeal B seeks full permission for three houses, one detached and a pair of semi detached homes. Both appeals share similar development principles. To avoid duplication my reasoning addresses the two schemes together, except where otherwise indicated. Nevertheless, I have considered each proposal on its individual merits.
4. Appeal A is in outline form. Approval at this stage is sought for access, layout and scale. Appearance and landscaping are reserved matters. I treat any drawings or other material relating to the reserved matters as indicative of the proposal.

5. 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.
6. I have paid regard to the planning history of the site, including previous appeal decisions, insofar as it is brought to my attention. I have also paid regard to planning permission granted by the Council for the erection of a two storey detached dwelling and a pair of semi detached houses in April 2021 (2021 Permission). The Council accept that the 2021 Permission is a legitimate fallback position. I do not have evidence that leads me to take a contrary view.

Main Issues

7. The main issues are :

- The effect on the character and appearance of the area.
- The effect on the living conditions of occupiers of nearby properties
- The effect of the proposed parking and access arrangements on highway safety (Appeal B only).

Reasons

Character and appearance

8. The area is residential in character and typified by post war housing of traditional appearance and configuration. There are a variety of detached and semi detached homes in the immediate vicinity, both two storey and bungalows. Houses mostly sit in relatively generous plots, with small amenity/parking areas to the front and larger gardens to the rear, features generally consistent with a suburban location.
9. Towncourt Lane is a lengthy and relatively busy thoroughfare that also influences the character of the area with its activity. The site is opposite Shepperton Road, which allows for longer public views, in addition to the closer views from Towncourt Lane. The relatively flat topography serves to limit wider views.
10. The position of the house that currently sits on the site can be distinguished from others on Towncourt Lane by its set back from the road and main building which is at an angle to it. The house occupies a large plot of land around the outer section of a gentle bend in the road. This gives the site a relatively novel, almost triangular, shape that becomes wider as it moves towards the railway line beyond the rear boundary.

11. The proposals in both Appeals would position the dwellings towards the front of the site, as it narrows towards the road. The nature of the close public views from Towncourt Lane and longer views along Shepperton Road are such that the front elevations of the proposed dwellings would appear cramped, with limited gaps between the buildings or levels of separation perceivable. Such an outcome would be inconsistent with and harmful to the suburban character of the area.
12. I acknowledge that the overall plot sizes of each of the dwellings would not be dissimilar to others in the locality and the Appellant's comments regarding differences in separation distances between different buildings. This includes elements of the proposals that exceed the minimum 1 metre requirement in the Policy 8 of the Local Plan.
13. Notwithstanding the technical distances between buildings, the key question to my mind is how the gaps between built forms would be perceived from public views. In this regard, the layouts proposed would arrange the buildings within a part of the site that is too narrow to comfortably accommodate the developments without having the harmful impact on the character of the area discussed above.
14. The staggered variation in the front building line of the dwellings in Appeal B would not lessen this effect to an acceptable degree. However, I do not agree with the Council's view that the flank wall resulting from the stepped configuration would in itself be harmful. I am also not persuaded that the roof form proposed by Appeal B would run contrary to an established pattern of development that should be followed. The harm to the character of the area comes instead from the layout issues discussed above.
15. The novel position of the existing dwelling in relation to the road is noted. This configuration does not currently detract from the appearance of the area and maintains a sense of space between built forms that reinforces the suburban character. The proposals would not represent an improvement.
16. In the case of Appeal A, I am not satisfied on the basis of the information provided that my concerns relating to the layout could be overcome as part of detailed reserved matters on appearance or landscaping.
17. I acknowledge the evidence that has been provided on the similarities between the proposals and the 2021 Permission. The drawings that are indicated by the Council as being related with the 2021 Permission, which the Appellant does not dispute, appear to include differences in the boundary and the positions of the dwellings within the site. To my mind, the layout in the 2021 Permission would result in an improved perception of separation between built forms as seen in the public views discussed. This would lessen the harmful effects discussed above. As such, the 2021 Permission can be distinguished from the proposals.

18. In conclusion on this matter, the proposals would have harmful effects on the character and appearance of the area. Consequently, there is conflict with policies in the development plan for the area, specifically policies 4,8, and 37 of the Local Plan and D3 and H2 of the London Plan, which collectively seek to ensure that development achieves a high standard of design and layout that complements the character and appearance of the area.
19. The Council's reason for refusal 1 in Appeal B refers to conflict with Policy 1 of the Local Plan. Given the strategic nature of this policy, I am not persuaded by the evidence that there is direct conflict with this policy.

Living conditions

20. In their reasons for refusal the Council set out concerns about the impact of the proposals on the occupants of 96 Towncourt Lane (96). This property currently has a relatively open outlook to the rear, principally due to the depth of the gardens and lack of built forms significantly beyond the rear building line.
21. In relation to Appeal A, the proposed dwelling closest to 96 would be positioned at an angle to it. I do not have drawings that fully show the scale of the development, although I note that the proposed dwellings are indicated on the application form as being 4+ bedrooms.
22. On the basis of the proposed layout and its proximity to 96, I am not satisfied from the information provided that the proposal in Appeal A would not result in a significant and unreasonable sense of enclosure to the rear windows and part of the rear garden of 96. As this issue relates to the appropriateness of the layout, there is not a reasonable likelihood that it could be addressed as part of later reserved matters.
23. Appeal B indicates a different boundary arrangement with 96. The dwellings would not therefore be in the same proximity to this property compared to Appeal A and the angled relationship described above would not occur. As such, I am satisfied that Appeal B would not result in harmful impacts on the living conditions of the occupants of 96.
24. For the reasons set out, Appeal A would have a harmful effect on the living conditions of occupiers of nearby properties. Consequently, there is conflict with the development plan for the area, specifically policies 4,8, and 37 of the Local Plan, which seek to ensure satisfactory levels of amenity are retained as a component of good design.
25. Based on the information provided, I am not persuaded that there is conflict with policy H2 of the London Plan.

Highway safety (Appeal B only)

26. In support of Appeal B, I have no detailed evidence relating to local traffic flow. However, it is self evident that Towncourt Lane serves as a relatively busy thoroughfare for local vehicular traffic. Given the likely levels and nature of traffic flow, routine reversing on to the road does not represent safe and suitable access to and from the site and poses an unacceptable risk in terms of highway safety.
27. The evidence provided does not show how motor vehicles accessing and leaving each of the dwellings would be able to do so safely in forward gear. The width of the dwelling frontages and nature of Towncourt Lane is such that I am unwilling to accept at face value that such manoeuvres would be easily achievable.
28. The Appellant's comment that the proposed parking and access arrangements are identical to others along Towncourt Road is not satisfactorily evidenced. Given the variety and location in accesses along the road, it logically follows that there would be similar variety in the quality of access. As such, each proposal needs to be assessed individually.
29. I accept that the Council have provided no evidence to show that the existing access has posed a risk in terms of highway safety. However, as the proposal represents an intensification in use with a change to the access along the frontage with Towncourt Lane, the existing arrangements do little to justify the proposal.
30. In relation to car parking, the Council have indicated a need of 2 spaces per dwelling in order to meet the requirements of policy 30 of the Local Plan. The Appellant does not dispute the need for this level of provision and has indicated on the plans the space that would be made available to the front of each dwelling.
31. I agree that the space indicated appears tight. However, the evidence demonstrates that it is adequate in the sense of space provision for parking. The requirements of policy 30 would therefore, on balance, be met.
32. I have reservations that achieving the parking provision would leave little space for additional hard and soft landscaping and the effect of this on the character and appearance of the area. Notwithstanding this, given my conclusions on other matters, it is not expedient to pursue this line of thinking further and introduce it as a new issue.
33. For the reasons set out, on the basis of the information provided, Appeal B would have a harmful effect on highway safety. Consequently, there is conflict with the development plan for the area, specifically policy 32 of the Local Plan in relation to road safety.

Conclusions

34. The proposals would result in harm to the character and appearance of the area, with conflict with the development plan for the area flowing from this harm. In addition, Appeal A would have a harmful effect on the living conditions of occupiers of nearby properties and Appeal B would have a harmful effect on highway safety.
35. In light of the harm identified there is also consequent conflict with the objectives of the Framework. Specifically the aim of fostering well-designed and beautiful places, along with policies in Paragraph 126 which confirms that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, Paragraph 130 regarding high standards of amenity for existing users, and Paragraph 110 in relation to ensuring access is safe and suitable for all users.
36. The Council do not dispute that the presumption at paragraph 11 d) of the Framework is engaged in the case of both Appeal A and Appeal B.
37. In terms of benefits, the proposal would make a contribution to housing delivery in an established residential location. I am mindful of the Government's commitment to significantly boosting the supply of housing and the contribution that small sites can make, as set out in the Framework. I acknowledge that this is particularly important in a London context in light of the spatial strategy pursued in the London Plan. There are economic and social benefits related to the construction and occupation of the dwellings. As such, the proposal would be consistent with the aims in Paragraphs 60 and 69 of the Framework.
38. Paragraphs 119 and 120 of the Framework in relation to promoting effective use of land and the value of using brownfield land are also acknowledged. I have also paid regard to Policy D3 of the London Plan regarding making best use of land.
39. As mentioned throughout this decision, the 2021 Permission creates a legitimate fallback position and is a material consideration in its own right.
40. The fallback position would allow 3 dwellings (a net gain of 2) to be delivered on the site, with the harmful effects that I have identified reduced to a level considered to be acceptable by the Council. The fallback position therefore reduces the overall significance of the benefits that would result from the contribution of the proposals to housing supply.
41. Weighing the issues up, 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.

42. A such, the presumption at paragraph 11 d) of the Framework does not direct me to grant planning permission.
43. In overall conclusion, for the above reasons and having regard to all other matters, both Appeal A and Appeal B should be dismissed.

D.R. McCreery

INSPECTOR