
Appeal Decision

Site visits made on 7 December 2021 and 2 February 2022

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 07/02/2022

Appeal Ref: APP/G5180/W/21/3280989

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 failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr William Salem against the Council of the London Borough of Bromley.
 - The application Ref DC/21/02386/OUT, is dated 12 May 2021.
 - The development proposed is demolition of existing house and garages and construction of 3 X 2 storey detached houses.
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Decision

1. The appeal is allowed and outline planning permission is granted for demolition of existing house and garages and construction of 3 X 2 storey detached houses at 94 Towncourt Lane, Petts Wood, Orpington, BR5 1EJ in accordance with the terms of the application Ref DC/21/02386/OUT, dated 12 May 2021 and subject to the conditions in the attached schedule.

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 two 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.
3. The proposal 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.
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.

5. I have dealt with other appeals on this site¹. They are the subject of a separate decision. Inevitably there is some repetition between decision letters, given the similarities between the proposals and the matters under consideration. However, I have considered all appeals on their individual merits. A further unaccompanied site visit was undertaken for this appeal in order to make additional observations
6. I have paid regard to the other planning history, 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, which I agree with.

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.

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.

¹ APP/G5180/W/21/3266627, APP/G5180/W/21/3277605

11. The proposal would breach the generally established building pattern of neighbouring properties by being set back further within the site. However, given the degree of variation in building position and appearance evident in the general locality, this aspect of the layout would not detract from the character of the surroundings. It is also noteworthy that the dwellings shown in the 2021 Permission would also be set back further from the road than neighbouring properties.
12. The layout proposed, including set back within the site discussed above, would allow for an appropriate degree of separation between each of the new dwellings and also the boundary with neighbouring properties. As seen in key public views from Towncourt Lane and Shepperton Road, the proposal would not be viewed as cramped or clearly inconsistent with an established pattern of development that contributes to the character of the area.
13. The evidence also does not demonstrate that the depth and linear proportions of the dwellings would be out of character with the area. Given the proposed layout, the overall depths of each of the dwellings would not be easily perceivable as views would be filtered by intervening built forms such as neighbouring buildings and boundary features.
14. The area to the front of the proposed dwellings would be used for parking, turning, and landscaping. The space appears similar to that shown in the 2021 Permission and is adequate to accommodate these activities.
15. Whilst landscaping and appearance would be reserved matters, I am satisfied that the layout and space available around the dwellings would allow for a reasonable prospect of a detailed scheme being agreed to ensure that the development assimilates into the surroundings.
16. I am not persuaded from the information provided that, when seen in key views, the proposal would have a significantly dissimilar effect on the character and appearance of the area to the 2021 Permission. In this regard, the Council have not adequately demonstrated the difference or harm that would result from the proposal.
17. In conclusion on this matter, the proposal would not have a harmful effect on the character and appearance of the area. Consequently, there is no 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.

Living conditions

18. In their draft reason for refusal the Council set out concerns about the impact of the proposal 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.
19. The set back of the proposed dwellings within the site would result in a rearwards projection that would go well beyond the rear building line of 96.
20. Notwithstanding this, the angle of the rear wall of 96 in relation to the dwellings, along with the set in of the nearest proposed dwelling, would be such that the open outlook of 96 to the rear would be substantially maintained. Views towards the proposed dwellings from the rear windows of 96 would also be at an angle.
21. The overall effect of the proposal on the windows, and therefore internal spaces, of 96 in terms of sense of enclosure would be acceptable.
22. In relation to effects on the garden space of 96. Again, the primary sense of openness and outlook is towards the rear boundary and would be retained. Although the appearance of the dwellings is reserved, the scale of the proposal is such that some increased built presence would be felt when using part of the garden of 96. However, in light of the setbacks that would be provided from the boundary, the greater sense of enclosure resulting from this would not be at a level likely to materially effect the living conditions of the occupants of 96.
23. For the reasons set out, the proposal would not 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 and Policy D3 of the London Plan, which seek to ensure satisfactory levels of amenity are retained as a component of good design.
24. Based on the information provided, I am not persuaded that there is conflict with policy H2 of the London Plan, given its intention.

Other Matters

25. I have considered other planning issues that might be relevant to the proposal, including wider compliance with policy in the development plan for the area that has been brought to my attention and the Framework. On the basis of the evidence provided, the proposal is acceptable in this regard. I have also paid regard to the comments made by other interested parties, including consultees.

26. In relation to highways issues, the proposal would make appropriate provision in terms of car parking spaces. Given the space available to the front of the proposed dwellings I am satisfied that acceptable space for manoeuvring of vehicles would be provided to ensure that access would be safe and convenient for users. With the exception on construction vehicles, a specific requirement to provide a swept path analysis would not be justified in this case as the acceptability of the turning space within the site resulting from the development can be adequately judged from the details already available. Any modifications to the area where the access meets the highway would be adequately identified and carried out in response to the road safety audit required by condition and discussed below.

27. All other matters have been taken into account but do not affect my conclusions on the main issues.

Conclusion

28. For the above reasons the appeal is allowed and outline planning permission is granted. This is subject to the conditions in the attached schedule, which are discussed further below.

Conditions

29. I will consider conditions by reference to the numbering in the attached schedule. Where used, I may have amended the wording of the conditions suggested by the Council, as appropriate, in the interests of clarity and effectiveness. Suggested conditions relating to the reserved matters (appearance and landscaping) have not been included.

30. (1) (2) (3) accord with s92 of the Town and Country Planning Act 1990. (4) (6) are necessary in the interests of highway safety and managing the construction impacts of the development. They need to be pre commencement conditions as they may include mitigation measures that need to be in place before works can start. (5) is necessary to ensure appropriate arrangements for drainage. It needs to be a pre commencement condition as it may include measures that could not be easily retrofitted at a later date. (7) (8) are necessary to ensure suitable provision is made for waste and cycle storage. (9) is necessary in the interests of promoting biodiversity. (10) is necessary in the interests of making appropriate provision in terms of housing standards. (11) is justified on the basis of the site's proximity to the railway line.

31. Paying specific regard to the Appellant's comments on (4) I am satisfied that the condition is necessary, on the grounds set out above, given the intensification in use of the access onto a relatively busy highway. The work to comply with the condition should be proportionate in scale and nature to the development concerned.

32. However, I have amended the Council's suggested condition to remove the need for pre-agreement of a methodology. Such a matter could be usefully discussed informally ahead of submission but is not necessary as a requirement of the condition.
33. No clear justification has been provided for the need to remove national permitted development rights and I see no obvious reason to do so. No such condition has been imposed.

D.R. McCreery

INSPECTOR

Schedule of conditions

1. Details of the appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. Prior to commencement of development a Road Safety Audit shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented strictly in accordance with the approved details and completed before any part of the development hereby permitted is first occupied.
5. Prior to commencement of development a scheme for the provision of surface water drainage (to include any measures needed to prevent the discharge of surface water from private land on to the highway) shall be submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of the potential for disposing of surface water by means of a sustainable drainage system, including any details of the design and proposals for maintenance of any such system. The development shall be carried out in accordance with the details approved prior to first occupation and shall be retained and maintained throughout the lifetime of the development.
6. Prior to commencement of development (including demolition) a Construction and Environmental Management Plan shall be submitted to and approved in writing by the local planning authority. The plan shall include:- (a) Dust mitigation and management measures. (b) The location and operation of plant and wheel washing facilities (c) Measures to reduce demolition and construction noise (d) Details of construction traffic movements to include - (i) Travel and traffic routes to and from the site as well as within the site. (ii) Details of the number and time of construction vehicle trips to the site. (iii) Measures to deal with safe pedestrian movement. (iv) Full contact details of the site and project manager responsible for day-to-day management of the works (v) Parking for operatives during the construction period (vi) A swept path drawing for any tight manoeuvres on vehicle routes to and from the site including proposed access and egress arrangements at the site boundary. (e) Hours of operation. The development shall be undertaken in accordance with the details approved.
7. Details of arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works. The arrangements shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
8. Details of arrangements for bicycle parking (including covered storage facilities where appropriate) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works. The arrangements shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.

9. Prior to the commencement of above ground works, details of artificial bird nesting bricks/boxes shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and shall be permanently retained as such thereafter.
10. The development hereby permitted shall be built in accordance with the criteria set out in Building Regulations M4(2) 'accessible and adaptable dwellings' and shall be permanently retained thereafter unless otherwise agreed with the Local Planning Authority.
11. An acoustic assessment shall be submitted to the Local Planning Authority for approval in writing prior to commencement of the development above ground level (excluding ground clearance and demolition). The assessment shall determine the worst-case day time and night time ambient background noise levels affecting this location and predict the internal levels in the proposed residential dwellings. The acoustic assessment shall consider any necessary mitigation (covering façade, glazing and ventilation specifications to achieve suitable internal noise levels in line with guidance in BS8233:2014) and any such mitigation shall be carried out prior to first occupation of the development and permanently retained and maintained thereafter unless otherwise agreed with the Local Planning Authority.