



Appeal Decision

Site visit made on 8 March 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2022

Appeal Ref: APP/G5180/W/21/3277451

Land adjacent to 21 Dalton Close, Orpington BR6 9QY

- 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 permission in principle.
 - The appeal is made by WBerkton Ltd against the Council of the London Borough of Bromley.
 - The application Ref 20/05256/PIP, is dated 28 December 2020.
 - The development proposed is Permission in Principle for the erection of semi-detached property comprising of 2x three bedroom dwellinghouses.
-

Decision

1. The appeal is dismissed.

Applications for costs

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

Preliminary Matters

3. I have used the Council's development description as it more accurately and concisely describes the development to which the appeal relates. I also note that the Appellant has utilised this on their appeal form. Fundamentally, it does not change the development subject of the appeal. I am therefore satisfied that neither party would be prejudiced by my use of it.
4. Since the appeal was lodged, a revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. This does not change the planning policy context in respect of the main issues.
5. The appeal is against the Council's failure to determine application Ref 20/05256/PIP within the relevant statutory period. The Council has set out at appeal that had it been in a position to do so, it would have refused permission for the development proposed. The Council has provided clarity in terms of the reasons why it would have refused planning permission in an officer report.

Procedural Matters

6. The proposal is for Permission in Principle for residential development. This consent route has two stages. The first stage establishes whether a site is suitable in principle. The second stage forms the technical details consent, where the detailed development proposals are assessed. The appeal relates to

the first stage and therefore I have considered only the principle of the scheme.

7. The appellant has included a proposed layout as part of the submission which suggests how a 2-plot scheme could be laid out within the site. Such information is to be taken as indicative for the purposes of this first stage of the Permission in Principle process and it is on that basis that I have determined the appeal.

Main Issues

8. The main issue is the effect of the development on the character and appearance of the surrounding area, having particular regard to the location, proposed land use and the amount of development.

Reasons

Location

9. The appeal site comprises a small parcel of landscaped land, positioned in the centre of Dalton Close, with all properties in the cul-de-sac facing onto it. Several trees, including two covered by a Tree Preservation Order (TPO), exist on the site. The site, including these trees, can be viewed from the junction with Tubbenden Lane. The character of the surrounding area is one that is undoubtably urban and residential. The site is reasonably close to both Orpington railway station and Orpington town centre.
10. Therefore, in strategic locational terms and access to services and facilities, notwithstanding the consideration of any effects on the character and appearance of the surrounding area or the land use and amount of development here, the site is an appropriate location for residential development.

Land Use

11. The proposed land use is for residential purposes which given the surrounding land uses is clearly compatible with the existing development in the immediate vicinity of the site. To that end, the proposed use is acceptable in principle.

Amount

12. The application was submitted for residential development of a minimum and maximum figure of 2 dwellings. The appellant considers that the proposed development would be the optimal use of the site of appropriate plot size and density.
13. The appeal site is undeveloped insofar as it forms a piece of landscaping rather than built form and is an historic feature of this housing development. Regardless of ownership, the verdant and open nature of the site contributes positively to the openness of the cul-de-sac and to the character and appearance of the surrounding area from which it can be seen.
14. In contrast, the proposal would introduce built form onto a currently open and landscaped site. Given the exposed location within the cul-de-sac, any development here would appear overly prominent when viewed from the roadside and adjoining properties. Moreover, the loss of the open gap between the properties surrounding the appeal site would detract from and disrupt the

originally intended – and pleasant - layout of the cul-de-sac. As such, the development would appear as an incongruous and discordant feature. Even if the scale of development was to be less than illustrated, it would still result in a development which would be inconsistent with the prevailing character and form of the existing cul-de-sac.

15. In addition to the above, the development would result in the complete loss of several existing mature trees and shrubs within the site, some of which are subject to a TPO. The presence of the trees here provides a welcome verdancy within the streetscape. They are visible from Mottingham Lane and a high number of neighbouring properties. They make a positive contribution to the appearance of the street as a whole.
16. In coming to the above view, I acknowledge that the appellant considers that the scale and amount of development proposed is consistent with properties and developments in the surrounding area. However, nearby housing developments are not identical in their make-up and cannot be used as a direct comparison to this site. The scale and amount of properties within the cul-de-sac itself may be similar, however the overall layout of the cul-de-sac and the relationship between existing properties and the appeal site is of significant importance.
17. Taking the above matters into consideration, I conclude that the amount of development proposed would be unsuitable. It would be harmful to the character and appearance of the surrounding area, and therefore contrary to the relevant provisions of Policies 37, 73 and 74 of the Bromley Local Plan (2019), which, amongst other things, requires development proposals to be of a high standard of design and layout.

Other Matters

18. I have had regard to the various comments of interested parties which have been received in response to the proposed Permission in Principle. In addition to matters related to the character and appearance of the development, as addressed above, concerns have been raised regarding a number of other matters. These include the effect on the living conditions of neighbouring properties having regard to privacy, light, and noise and disturbance, the adequacy of outlook and privacy for future occupiers of the proposed development, highway and pedestrian safety, concerns over drains and water supply as well as the collection of waste. However, these are not matters which would fall within the scope of consideration for this first stage of the Permission in Principle consent route. These are all matters which would need to be addressed as part of the technical details consent, the second stage of the process. Nevertheless, I have found that the first stage has failed the relevant tests.
19. Similarly, technical matters raised by the appellant in support of the proposal, including the standard of accommodation, health of trees, highways and biodiversity, are matters for the second stage of the Permission in Principle consent route and in any case are not of sufficient benefit to outweigh the harm identified here.
20. I acknowledge the appellant's comments that the site does not sit within a conservation area and is not formally designated as open space together with the fact that neighbouring properties also benefit from their own private

amenity space. However, these matters are not an automatic reason to accept the loss of this open space for development.

Planning Balance

21. It is common ground between the main parties that the Council cannot demonstrate a deliverable 5 year supply of housing and I have no reason to disagree with that view.
22. Consequently, the relevant policies for the supply of housing should be considered out-to-date and paragraph 11(d) of the Framework, in respect of the presumption of sustainable development, is engaged. In this event, the Framework establishes that permission should be refused only where any adverse impacts of proposed development would significantly and demonstrably outweigh its benefits.
23. The development would provide much needed residential accommodation which is a clear benefit of the proposal. There would also be temporary economic benefits during the construction phase, together with long term social and economic benefits through increased support for local shops and services in the area.
24. However, these are limited benefits of the scheme. The harm I have identified in respect of the character and appearance of the area weighs very heavily against the scheme.
25. Taking all of the above factors into account, whilst there are obvious benefits arising from the proposal in terms of housing delivery, I consider that the harm I have identified to the character and appearance of the area significantly and demonstrably outweighs the benefits of the scheme when assessed against the policies in the Framework, taken as a whole. The proposal cannot therefore be considered to be sustainable development.

Conclusion

26. For the above reasons, and having considered all other matters raised, I conclude that the appeal should be dismissed.

A Price

INSPECTOR