



Appeal Decision

Site visit made on 11 April 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 May 2022

Appeal Ref: APP/G5180/W/21/3277623

21 Lancing Road, Orpington BR6 0QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Haskins against the decision of London Borough of Bromley.
 - The application Ref DC/21/01425/OUT, dated 22 March 2021, was refused by notice dated 10 June 2021.
 - The development proposed is demolition of existing double garage and workshop and erection of two/three storey apartment block comprising 4 x 1 bed flats and 1 x 2 bed flat and alterations to existing access.
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Decision

1. The appeal is allowed and outline planning permission is granted for demolition of existing double garage and workshop and erection of two/three storey apartment block comprising 4 x 1 bed flats and 1 x 2 bed flat and alterations to existing access at 21 Lancing Road, Orpington BR6 0QS in accordance with the terms of the application, Ref DC/21/01425/OUT, dated 22 March 2021, subject to the 15 conditions set out in the attached schedule.

Applications for costs

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

Preliminary Matters

3. There is a contradiction in terms on the Council's decision notice given that it sets out a notification of refusal of outline planning permission yet the reason for refusal refers to powers granted under Section 70B of the Act to decline to determine the application. Whilst the Council has acknowledged that this was an administrative error and a subsequent 'Notice of Decision to decline to Determine Planning Application' was sent to the appellant setting out the same, there is nothing before me to indicate that the Council has lawfully rescinded the initial decision notice through the Courts. In these circumstances, the decision notice refusing outline planning permission remains in force and I have considered the appeal on that basis.
4. As set out above, the decision notice which led to this appeal does not give planning policy reasons for the refusal of planning permission. However, the Council has confirmed that it is contesting the appeal and is relying on its submissions presented in relation to an appeal which I recently determined on the site for an identical proposal¹ (the recently determined appeal). There is nothing before me to indicate that the Council has reviewed its case since I

¹ Appeal Ref. APP/G5180/W/21/3271589

allowed the identical development. Therefore, I have taken these matters into consideration in defining the main issues.

5. The applicant details on the planning application forms simply state 'Haskins'. I have included the appellant's title in my banner heading as provided on their appeal forms.
6. The appellant has re-provided their statement of case from the recently determined appeal which amongst other things contends that the Council cannot demonstrate a deliverable 5-year supply of housing sites. This has not been disputed by the Council. As a result, paragraph 11d of the Framework is engaged and the Council's policies relating to the delivery of housing are out-of-date. I have taken this into account in defining the fourth main issue and this is addressed in my planning balance and conclusion.
7. Shortly before the planning application was submitted to the Council, the London Plan 2021 (LP 2021) was published (March 2021) and now forms part of the development plan for the area. The Government has also published the revised National Planning Policy Framework (the Framework) (July 2021) following submission of this appeal and this document is being brought into immediate effect for the purposes of decision-making. The main parties have referred to these documents within their appeal submissions and these documents have been material to my assessment.
8. The proposal is in outline form but seeks approval of details of access, appearance, layout and scale. Therefore, these matters would be fixed by the proposal with landscaping the only reserved matter.
9. Copies of the relevant development plan policies have not been provided. However, these were provided as part of the recently determined appeal and there is nothing before me to suggest there has been any change to the development plan since then.

Main Issues

10. The main issues are:

- (i) the effect of the proposal on the character and appearance of the area;
- (ii) the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to privacy;
- (iii) whether the proposal would provide suitable living conditions for future occupiers of the development with particular regard to the provision of private outdoor space; and
- (iv) whether the proposal would deliver a sustainable form of development in the context that the Council is unable to demonstrate a five-year supply of deliverable housing sites.

Reasons

Character and appearance

11. In allowing the recently determined appeal, I had regard to a previously dismissed appeal² on the site. I noted amongst other things that the northern end of Gravel Pit Way was in the process of change with residential developments of greater comparable scale and mass taking place on an adjoining site on Homefield Rise and opposite the site at No 251–259 High Street. The Council and appellant have confirmed that there have been no material changes to the site or surroundings since I visited the site for the recently determined appeal other than work has continued to progress on the adjoining site at Nos 8-28 Homefield Rise. I saw this for myself when I visited a third-party's property on 11 April 2022.
12. The scheme before me is the same as that which I have already approved. I remain of the view that the proposal overcomes the siting and massing issues that had specifically concerned the previous Inspector through the substantial reduction in the extent of the two-storey rear projecting element. Consequently, the development would occupy a peripheral position towards the far end of neighbouring rear gardens on Lancing Way. The scale of the building and its contemporary design would sit comfortably amongst the backdrop of higher buildings in Orpington Town Centre and alongside the expanding residential nature of developments towards the northern end of Gravel Pit Way.
13. I conclude, the development would have an acceptable relationship with the character and appearance of the area. In that regard, the proposal would comply with the design-led approach and local character requirements in Policies 3 (Backland and garden land development), 4 (Housing Design) Policy 8 (Side Space) and 37 (General Design of Development) of the London Borough of Bromley Local Plan (2019) (BLP), Policies D1 (London's form, character and capacity for growth), D3 (Optimising site capacity through the design-led approach), D6 (Housing quality and standards) and H2 (Small sites) of the LP 2021 and the Framework.

Living conditions of neighbouring occupiers

14. Following a third-party request in respect of this appeal, I visited the neighbouring property at No 23 Lancing Road. This confirmed my previous observations that the substantial distance between the windows of the proposal and the rear windows and more private parts of gardens of neighbouring dwellings on Lancing Road would provide suitable levels of privacy. I also remain satisfied that views of the mid to rearmost parts of neighbouring gardens would be more oblique and would relate to areas which are already overlooked from the upper windows of neighbouring properties on Lancing Road.
15. I conclude, the development would provide acceptable living conditions for neighbouring occupiers with particular regard to privacy. In that regard, the development would comply with the requirements for development to not have an unacceptable impact on the residential amenity of future or existing occupiers, including with regards to privacy, in Policies 3, 4 and 37 of the BLP, Policy D3 of the LP 2021 and the Framework.

² Appeal Ref. APP/G5180/W/19/3223615

Living conditions for future occupiers

16. In allowing the recently determined appeal on the site, I noted that the upper floor flats would be provided with a balcony to the front of the building. In addition and subject to a condition to secure a rear access door in the communal corridor, the rear garden would provide sufficient external, private amenity space that is accessible and practical for future occupiers of the building. There is no further evidence before me to indicate that I should conclude differently this time.
17. I conclude that, subject to the aforementioned condition, the proposal would provide suitable living conditions for future occupiers of the development with particular regard to provision of private outdoor space. In that regard it would comply with the amenity and external space requirements in Policies 4 and 37 of the BLP and Policies D3 and D6 of the LP 2021.

Other Matters

18. I have carefully considered the concerns of third-parties including those not covered by the main issues. They generally raise similar concerns to those addressed in the recently determined appeal.
19. Given the spacing between the proposed building and surrounding buildings and its position close to the rearmost parts of adjoining gardens, the proposal would provide suitable living conditions for neighbouring occupiers and future occupiers of the building with regards to means of outlook and light.
20. There is no objective evidence before me to suggest that the development would result in accessibility or safety issues on the highway, that the public sewer could not accommodate the development, that it would be harmful to the security of neighbouring properties or harmful to protected species. Given the size and nature of the site, any effects on biodiversity are likely to be very minimal.
21. My assessment has been made on the basis of the proposal before me and the existing site circumstances and surroundings. The potential for future similar developments on Gravel Pit Way is not a matter for me to assess under this appeal.
22. No policy requirements have been presented to suggest that the development would hit triggers for affordable housing, local health or education contributions. Even if there are other proposals or developments taking place in the area, the Council has not provided conclusive evidence to suggest it can demonstrate a five-year land supply. In any case, I have found that the development would be acceptable when considered under the main issues and the relevant policies of the development plan.

Conditions

23. Given that the proposal is identical to the development allowed under the recently determined appeal decision I attach the same 15 conditions as previous and I am satisfied that they meet the relevant tests in paragraph 56 of the Framework.

Planning Balance and Conclusion

24. The proposal would accord with the policies in the Framework when considered as a whole. Furthermore, I have found that the proposal would accord with the policies of the development plan. Therefore, the proposal would deliver a sustainable form of development and hence the appeal should be allowed.

M Russell

INSPECTOR

Schedule of Conditions

- (1) Details of the landscaping, hereinafter called "the reserved matter" 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 matter 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 reserved matter.
- (4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. ED-01 (Location Plan dated 2018), 4111-PD-101 (Proposed Site Location Plan dated 2021), 4111-PD-102 (Proposed Ground Floor Site Plan dated 2021), 4111-PD-103 (Proposed Plans and Street Elevation dated 2021), 4111-PD-110 (Proposed Front Elevation 1 dated 2021), 4111-PD-111 (Proposed Rear Elevation 2 dated 2021), 4111-PD-112 (Proposed Side Elevation 3 dated 2021) and 4111-PD-113 (Proposed Side Elevation 4 dated 2021).
- (5) Prior to commencement of the development hereby approved (excluding any ground clearance or demolition) a scheme for the provision of surface water drainage 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 (SuDS) to ground, watercourse or sewer. The scheme shall also demonstrate how surface water will not discharge to the highway. Where a sustainable drainage scheme is to be provided, the submitted details shall provide information about the design storm period and intensity, the method employed to delay (attenuate) and control the rate of surface water discharged from the site as close to greenfield runoff rates (21/s/ha) as reasonably practicable and the measures taken to prevent pollution of the receiving groundwater and/or surface water. Once approved in writing, the development shall be implemented in full accordance with the approved scheme prior to first occupation of the development hereby approved.
- (6) Prior to the commencement of the development hereby permitted a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include measures of how construction traffic can access and egress the site and off-load materials safely, how potential traffic conflicts can be minimised, the route construction traffic shall follow for arriving at and leaving the site, the hours of operation for construction works and details of a suitable hardstanding with wash-down facilities for cleaning the wheels of vehicles. The CMP shall also set out how any accidental accumulation of mud of the highway caused by vehicles during construction works on the site shall be removed without delay and in no circumstances be left behind at the end of the working day. Once approved the development shall be carried out in full accordance with the approved CMP.

- (7) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
- (8) Prior to commencement of development (excluding demolition) details of the proposed slab levels of the building and the existing site levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the approved levels.
- (9) Prior to commencement of above ground works, details (including samples) of the materials to be used for all external surfaces of the building shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the development shall be carried out in accordance with the approved details.
- (10) Before the development hereby approved is first occupied, the parking and turning space shown on the approved drawings shall be provided and thereafter shall be kept available for such use.
- (11) Before any part of the development hereby permitted is first occupied that part of a sight line of 45m x 2.4 x 45m which can be accommodated within the site shall be provided in both directions and with the exception of trees selected by or the Local Planning Authority no obstruction to visibility shall exceed 1 metre in height in advance of this sight line. These sightlines shall then be retained as such thereafter.
- (12) Prior to construction of any above ground works, full details of provision for bicycle parking (including covered storage facilities where appropriate) shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the bicycle parking provision shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
- (13) All bathroom windows on the development shall be fitted with obscured glazing, and no parts of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.
- (14) Prior to commencement of above ground works, details of a door to the ground floor rear wall of the communal corridor which shall provide communal access for occupiers of the building to the rear outdoor space shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the door shall be provided prior to first occupation of the building and shall be retained for the communal use of occupiers of the building thereafter.

- (15) The double garage and workshop on the site shall be demolished prior to first occupation of the apartment block hereby approved.