



Appeal Decision

Site visit made on 31 March 2022

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2022

Appeal Ref: APP/G5180/W/21/3280764

1B Copers Cope Road, Beckenham, BR3 1NB

- 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 Martin Lewis against the decision of London Borough of Bromley.
 - The application Ref DC/20/03927/FULL1, dated 25 September 2020, was refused by notice dated 12 February 2021.
 - The development proposed is demolition of the existing dwelling and erection of 7no. apartments and associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for demolition of the existing dwelling and erection of a 7no. apartments and associated works at 1B Copers Cope Road, Beckenham, BR3 1NB in accordance with the terms of the application, Ref DC/20/03927/FULL1, dated 25 September 2020, and subject to the conditions set out in the attached schedule.

Applications for costs

2. The appellant has made an application for an award of costs against the Council. This is the subject of a separate Decision.

Preliminary Matters

3. Subsequent to the issue of the Council's decision notice, the London Plan 2021 has been adopted. Its adopted policies form a material consideration for this appeal and replace the London Plan policies quoted in the decision notice.
4. The Council cannot currently demonstrate a five year housing land supply, having just 3.99 years' supply at November 2021. As such, the presumption in favour of sustainable development as set out at Paragraph 11(d) of the National Planning Policy Framework (the Framework) applies to the proposal.
5. The Council has withdrawn its third and fourth refusal reasons following the submission of additional evidence by the appellant at the appeal stage relating to highways, parking and trees.

Main Issues

6. The main issues are the effect of the development on (a) the character and appearance of the area and (b) upon the living conditions of adjoining occupiers.

Reasons

Character and appearance

7. The two storey dwelling currently on the appeal site forms part of a row of two storey buildings on the southern side of Copers Cope Road, but these are of mixed form and appearance including terraced houses and a flat roofed garage. The northern side of the road comprises several apartment blocks, generally in deeper plots, many of which have four storeys and a flat roof. To the east at the junction with Southend Road is Berwick Court, a part seven storey and part three storey development sited close to the road frontage. My attention has been drawn to an unimplemented permission for a three storey building on a shallow site between Berwick Court and the appeal site.
8. The proposed three storey building would be higher and of considerably greater mass than that of the dwelling it would be replacing. But its height would not be significantly greater than that of the adjacent dwelling at 1d Copers Cope Road and its flat roof would reflect the flat roof to the adjacent garage and apartment blocks opposite. The building would be set in from the side boundaries allowing adequate visual separation to adjacent buildings. It would be sited forward of the existing dwelling and no.1d but would align with the garage. The curvature to Copers Cope Road and substantial vegetation to the front of several plots means that the building line to the southern side of the road is not readily apparent. The siting of the building would allow sufficient space for parking and landscape measures to ensure that the proposal would respect the verdant character to this part of Copers Cope Road.
9. Plot depths become shallower to the east of the site with buildings being set further forward with less opportunity for screening vegetation but greater separation between buildings. The eastern end to Copers Cope Road therefore has a more urban character than the appeal site, but the form and massing of the proposed building would nonetheless respect that of existing and consented schemes towards the eastern end of the road.
10. The proposal would result in a higher density residential development but would still respect the urban grain and context of this part of Copers Cope Road. The contemporary design proposed would be appropriate for the site in this context. The proposal would not thereby conflict with Policies 1, 4, 8 and 37 of the Bromley Local Plan (2019) (BLP) requiring new housing to be of a high standard of design, scale and layout, suitably set in from side boundaries to complement the form and layout of adjacent buildings and areas. Neither would there be conflict with Policies D3 and D5 of the London Plan (2021) on making the best use of land by following a design-led approach on housing schemes.

Living conditions

11. The adjacent dwelling to the east, 1d Copers Cope Road, is positioned to the rear of a tapering plot such that there is only a narrow sliver of land to its rear and the main outdoor amenity space is to the front. The plot has a generous width, similar to that of the appeal site and a high front boundary wall which would help to maintain privacy within the front garden.
12. The proposed building would be set forward of the front wall to no.1d which is also set at a slight angle to face towards the common boundary. Nonetheless, a

notional 45 degree line from the front facing windows in the two storey part of the building would not cut across the line of the proposed building. In my judgement, having regard to the separation distances, the proposed building would not materially affect light to or outlook from the front facing windows in the main two storey part of the dwelling. The front wall is north facing so does not benefit from much direct sunlight. The front garden is heavily vegetated which whilst enhancing its attractiveness would also have some effect on natural light received to some front windows.

13. Outlook at the front from a single storey element closer to the side boundary would be affected to a degree by the new building's massing. But this room which would appear to be used as a conservatory is dual aspect, benefitting from rear facing south windows, so there should not be a significant adverse effect on natural lighting. A patio to the front of the conservatory abutting the boundary to the appeal site would be subject to shading in afternoon hours at some times of the year due to the proximity of the 3 storey building. But the conservatory and patio are sited deep within the site and close to the common boundary such that it would be difficult to effectively redevelop the appeal site without some effect on the front garden area at no.1d.
14. Overall, there would not be a significant adverse effect on the living conditions of occupiers of 1d Copers Cope Road in relation to outlook from or light to habitable rooms within the main dwelling. Given the limited stepping forward of the new building and the setting away of the two storey element at no.1d from the side boundary, neither would there be a significant overbearing effect on the front facing windows or within much of the front garden. There would be a limited overbearing effect on the front patio.
15. There would be secondary side windows facing towards no.1d but with the high level windows proposed there should be no loss of privacy. Similarly, screens to the flank of the front balconies for the two 3-bedroom units close to the boundary with no.1d should ensure no overlooking of the dwelling; nor should there be undue noise nuisance from use of the balconies.
16. As the adjacent building to the west is a commercial garage and to the rear of the site there is a car park to a supermarket, there would be no impact on residential amenity in other directions.
17. The proposal would not have a material adverse effect on the living conditions of occupiers within the adjacent dwelling to the east and only a limited effect on its front garden. There would not be material conflict with Policies 4, 8 and 37 of the BLP, which collectively require the siting and design of developments to respect the amenity of occupiers of neighbouring buildings, ensuring they are not harmed by an overbearing impact, noise or disturbance, inadequate natural lighting, loss of privacy or by overshadowing. Nor would there be material conflict with Policies D3 and D5 of the London Plan (2021) on a design-led approach to optimising site capacity and embracing inclusive design.

Planning balance

18. Paragraph 119 of the Framework states, "*Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions*". These factors need to be balanced.

19. As the Council is not currently meeting its housing targets its adopted housing supply policies can be regarded as out of date. The effective use of land for providing additional homes is a benefit therefore that attracts significant weight. The proposal would have the benefit of providing a net increase of six dwellings of satisfactory size and layout in a sustainable location not far from facilities within Beckenham town centre. The development would be in accordance with Policies H1 and H2 of the recently adopted London Plan (2021) which have raised Bromley's annual housing supply target from 641 to 774 units, and which encourage the use of such small sites to help meet the target.
20. The replacement building would not be visually intrusive; its scale form and massing would be acceptable in relation to the character and appearance and immediate context of this part of Copers Cope Road. The siting of the building would have a limited overshadowing effect on the nearest part of the garden to 1d Copers Cope Road but there would not be a significant adverse effect on habitable rooms or for living conditions within the main dwelling.
21. The adverse impacts of granting planning permission would not therefore significantly and demonstrably outweigh the proposal's benefits when assessed against the policies in the Framework taken as a whole.

Other Matters

22. Residents have objected to the proposal on other grounds. The existing building may be one of the oldest in Copers Cope Road, but it is not listed nor within a conservation area. I concur with the Council that there is not an 'in principle' objection to the site's redevelopment. Information before me indicates that the 3 parking spaces proposed would accord with current planning policies, would not result in undue parking stress in the street and would therefore be sufficient to meet the needs of the development.

Conditions

23. In addition to the statutory condition limiting the lifespan of the permission, a condition is needed to list the approved plan numbers in the interests of proper planning. A condition is required to approve a Construction Method Statement, but I consider it unnecessary to include elements to control the free movement of traffic on the public highway suggested by the Council. Conditions are necessary to approve external materials to the development and landscape measures, including tree protection, to ensure a satisfactory appearance to the development. To safeguard living conditions for occupiers of the adjacent dwelling, conditions are needed in relation to window sizes and balcony screens to the eastern flank wall. The approved details for car parking, bicycle parking and refuse and recycling storage need to be provided to ensure that the site functions properly; conditions are necessary for these matters and also in relation to surface water drainage in the front garden and in relation to electric vehicle charging points in the interests of sustainability. The appellant has agreed to the Council's suggested condition in relation to parking permits to safeguard on street parking congestion. As the site abuts commercial premises, a condition is needed to require the recommendations of the Acoustic Assessment report to be implemented. To deter crime and in the interests of security, a condition is necessary to implement designing out crime measures. Finally, as the site is within an Air Quality Management Area, I have included the Council's suggested condition in relation to gas boilers.

Conclusion

24. For the reasons given above I conclude that the appeal should be allowed subject to appropriate planning conditions.

Rory MacLeod

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 4029-20-PL001 P6, 4029-20-PL002 P4 and 4029-20-PL003 P5, Design and Access Statement, Chartwell Arboricultural Report, Acoustic Assessment and Motion Transport Statement of Case.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - The parking of vehicles of site operatives and visitors;
 - Loading and unloading of plant and materials;
 - Storage of plant and materials used in constructing the development;
 - The location of wheel washing facilities;
 - Measures to control the emission of dust and dirt during construction;
 - Delivery, demolition and construction working hours; and
 - Contact details for the day to day management of the works.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) Prior to commencement of above ground works, details of the materials to be used for the external surfaces of the building which shall include roof cladding, wall facing materials and cladding, window glass, door and window frames, decorative features, rainwater goods and paving shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No site clearance, preparatory work or development shall take place until the submitted scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been implemented. The scheme for the protection of the retained trees shall be carried out as approved.

- 6) If any retained tree is cut down, uprooted or destroyed or dies another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the local planning authority.
- 7) No development shall commence above ground level until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) The building hereby permitted shall not be occupied until the windows in the eastern flank wall have been fitted so that no part of those windows is less than 1.75 metres above the floor of the room in which it is installed, and the windows shall be retained as such thereafter.
- 9) The building hereby permitted shall not be occupied until obscure glazed screens a minimum of 1.8 metres above finished floor level shall have been provided on the eastern side of the balconies as shown on the plan 4029-20-PL003 P5, and the screens shall be retained as such thereafter.
- 10) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 4029-20-PL002 P4 for 3 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear; the spaces shall thereafter be kept available at all times for the parking of residents' cars.
- 11) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 4029-20-PL002 P4 for the storage of refuse and recycling materials; these spaces shall thereafter be kept available for their specified purposes.
- 12) Notwithstanding the details shown on drawing no. 4029-20-PL002 P4 no dwelling shall be occupied until a plan has been submitted to and approved in writing by the local planning authority showing a scheme of the parking of bicycles within the site and these spaces shall thereafter be kept available for their specified purposes.
- 13) Prior to the commencement of above ground works details of a drainage system for surface water drainage, 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. Before any part of the development hereby permitted is first occupied, the drainage system shall be completed in accordance with the approved details and shall be retained permanently thereafter.
- 14) Before the development hereby permitted is occupied arrangements shall be agreed in writing with the local planning authority and be put in place to ensure that, with the exception of disabled persons, no resident (including future residents) of the development shall obtain a resident's parking permit within any controlled parking zone which may be in force in the vicinity of the site at any time.

- 15) Prior to first occupation of the dwellings, details of the location of active electric vehicle charging points (EVCP) and the proposed charging units shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details which shall be retained thereafter.
- 16) The scheme shall be implemented in accordance with the recommendations of the submitted Acoustic Assessment report prior to first occupation of the building.
- 17) The development hereby permitted shall incorporate measures to minimise the risk of crime and to meet the specific needs of the application site and development. No above ground construction shall take place until details of such measures have been submitted to and approved in writing by the local planning authority. The approved measures shall be implemented before the development is occupied and the security measures to be implemented in compliance with this condition shall achieve the Secured by Design accreditation awarded by the Metropolitan Police.
- 18) The application site is located within an Air Quality Management Area for NO_x: In order to minimise the impact of the development on local air quality any gas boilers must meet a dry NO_x emission rate of less than 40mg/kWh.