



Appeal Decision

Site visit made on 17 May 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2022

Appeal Ref: APP/G5180/W/21/3286413

Land at Canterbury Close, Beckenham, Bromley BR3 5EP

- 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 T Joseph against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/00292/FULL1, dated 13 January 2021, was refused by notice dated 5 September 2021.
 - The development proposed is described as the erection of three storey building, with basement, comprising 5 flats and the laying out of associated parking spaces and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of three storey building, with basement, comprising 5 flats and the laying out of associated parking spaces and amenity space at Land at Canterbury Close, Beckenham, Bromley BR3 5EP in accordance with the terms of the application, Ref DC/21/00292/FULL1, dated 13 January 2021, subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Mr T Joseph against the decision of the Council of the London Borough of Bromley. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site currently comprises an undeveloped plot of land which is generally laid to grass with some vegetation and trees to the rear and side boundaries. The surrounding area is predominantly residential with a mix of building types which include 3 storey flats and two storey terrace style dwellings. There is also a diversity in materials and detailed design with no overriding character or appearance to the wider street scene. However, the terraced dwellings in Canterbury Close have similar materials and design features.
5. The proposed development is a three-storey building, with further basement accommodation, to provide 5 flats with parking spaces to the front and amenity space to both the front and rear. The building would be sited to follow the

building line of the existing adjacent terraced housing in Canterbury Close and it would also be set in from the side boundaries of the appeal site to allow space around it.

6. As stated, the appeal site is undeveloped and has a verdant character. The Council refers to it as a valued local amenity space, however, I have not been advised of any specific policy protection or designations which affect the site. Moreover, I note that paragraphs 7.1.12 and 7.1.13 of the Council's Officer Report states that the site is not designated as Local Green Space in the Local Plan and the report considers a residential infill development to be appropriate in principle.
7. The appeal site does, however act as a green buffer providing visual relief between the built form is a positive feature in the street scene. Whilst the erection of the building would reduce the size of this green buffer, a large section of amenity space would be maintained to the plot frontage at the junction where Canterbury Close meets The Avenue. Additionally, spacing to the sides of the proposed building separating it from the neighbouring buildings of 1 Canterbury Close and Mayfair Court in Mayfair Close would also be provided. This would ensure that despite the reduction in the green buffer, visual relief and amenity space would be maintained within this local context.
8. Whilst concerns have been expressed about possible future conversion of the amenity space into hardstanding for additional parking to serve the flats, there is no evidence before me to suggest that this is likely and, in any event, I have not been made aware that this could be achieved without planning permission. Any future planning application to alter the amenity space would therefore be considered on its own merits. I also intend to impose a planning condition to confirm all hard and soft landscaping features.
9. As Canterbury Close is entered from The Avenue there is a prevailing three storey character and appearance to the street scene in The Avenue. To the side of the appeal site, Mayfair Court has a four-storey appearance. Dwellings in Canterbury Close are two storey in height with taller buildings clearly visible behind and to the side of these dwellings.
10. The proposed building follows the established building line, it would also have a flat roof matching the adjacent buildings. It's three-storey scale would form a natural transition between the four-storey height of Mayfair Court reducing to the two storey scale of Canterbury Close. This transitional reduction in scale would also be aided by the separation between the buildings and the partial stepping in of the upper floor of the building as proposed. The variation in detailed design and materials between Mayfair Court and Canterbury Close also allows for a design which adds further interest to the street scene.
11. The width of the proposed building would also be appropriate given the terraced nature of Canterbury Close. Moreover, the depth of the proposed building would not be significantly deeper than the existing dwellings on this side of Canterbury Close. The basement would be broadly submerged underground with limited visual impact from public vantage points.
12. For these forgoing reasons, the height, depth and width of the proposed building is appropriate, and it would not appear cramped or overdeveloped. I find the proposed development would complement the scale, proportion, form and layout of adjacent buildings, positively contributing to the existing street

scene. Though there would be some loss of the existing green buffer, sufficient amenity space would remain and there would be adequate spacing between buildings.

13. I therefore conclude that, the proposed development would not be harmful to the character and appearance of the area. Accordingly, it would be compliant with the relevant provisions of Policies 4 and 37 of the Bromley Local Plan January 2019 (the LP) which, amongst other things, seek to ensure that development is sympathetic to the character and appearance of the area.
14. Although not referred to in the Council's reason for refusal, the Council has also suggested that Section 1 of the LP, Policy D1 of the London Plan 2021, the National Design Guide and Section 12 of the National Planning Policy Framework (the Framework) are relevant. These policies and this guidance, amongst other things, seek to ensure development has a high level of physical integration with its surroundings. As set out in my findings above, I have found that the proposed development would achieve this.
15. The Council has also referred to Paragraphs 11 and 12 of the Framework. These paragraphs broadly support approving development proposals that accord with the development plan. I have found that the proposed development would accord with the development plan and there are no material considerations that indicate the plan should not be followed.

Other Matters

16. Interested parties have raised concern regarding the living conditions of neighbouring properties and future occupiers of the proposed development. Having considered the layout and siting of the proposed development in combination with its separation from neighbouring properties, I am satisfied that it would not adversely affect the living conditions of the occupiers of neighbouring dwellings or future occupiers of the proposed development.
17. Objections have also been raised in respect of highway safety and parking. I note the Council's Highway Officer reviewed the application and raised no objections. I have also not been furnished with evidence that convinces me that the proposed development would not comply with policy or pose a significant safety risk.
18. Doubts have also been raised about the standard of residential accommodation proposed. I have reviewed the floorspace provision for all of the units and this appears to comply with the relevant standards. The shape and room sizes in the proposed flats are also not convoluted or limited. Balconies are provided to upper-level flats with a garden amenity space provided to the rear for ground floor flats. I consider this to be acceptable.
19. In regard to biodiversity, the areas to the front and rear of the proposed building would be landscaped. The site is currently laid to lawn and provision of the landscaped spaces would support biodiversity. I also intend to impose a planning condition to allow agreement of the extent of landscaping to include species and planting details. I consider this to be acceptable.
20. In respect to property values, the courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of development on the value of a

neighbouring property could not be a material consideration¹. Therefore, the impact on property values has no bearing on my decision.

21. An Arboricultural report was submitted, and I note the Council's Tree Officer raised no objection to its content. I have also reviewed it and I am satisfied that subject to a condition to protect retained trees, no material harm would arise in this respect. I am also satisfied that surface water and drainage can be adequately controlled by planning conditions.
22. While planning applications may have been refused by the Council elsewhere for development, these are different proposals in a different location. I have considered the proposed development on its own merits as set out above. Furthermore, any future planning applications would be considered at the point of submission on their own individual merits. The possibility of potential precedent therefore has no bearing on my decision.
23. Restrictive covenants and rights of access have also been raised by interested parties, however, planning permission does not quash any restrictions on title and developers would need to separately address these. While concerns have also been raised about the proximity to the railway, I note that Network Rail raises no objection to the proposed development.
24. Interested parties highlight that the appeal site is located within an area designated as being in an area of Public Open Space Deficiency and the Council acknowledge that the wider area falls within this designation. However, the Council's Officer Report states that the appeal site is small and would not provide a suitable space in this respect. It indicates that the Council's priority is to address lack of open space at local park level (2 Hectares). Given the small scale of the appeal site, the Council priorities as set out above and my findings in relation to the main issue, I see no reason to disagree with the Council on this point.

Conditions

25. The Council has provided a list of suggested conditions, and I have assessed these having regard to the advice provided in the Planning Practice Guidance². Where necessary, I have amended the wording of some conditions for clarity.
26. In addition to the standard time limit for commencement, conditions are necessary specifying the approved plans [2]. To protect living conditions of nearby residents and to ensure highway and pedestrian safety [3]. To ensure that the development is in keeping with the character and appearance of the area and in the interests of biodiversity [4 and 7]. To manage surface water and drainage [5]. To ensure that the development is in keeping with the character and appearance of the area [6 and 10]. In the interests of refuge, storage and bicycle parking standards [8 and 9]. To protect living conditions [11 and 13] and to retain appropriate parking provision [12].
27. It is also necessary for conditions 3 and 4 to be pre-commencement conditions as the nature of the requirements of the conditions are such that they require information to be submitted to and agreed by the Council before development takes place on site.

¹ Planning Practice Guidance, Paragraph: 21b-008-20140306

² Planning Practice Guidance, Paragraph: 21a-003-20190723

28. The Council has confirmed that a Part M, Buildings Regulations, compliance statement was submitted with the application, and they have raised no objection in this regard. However, I have not included the Council's suggested condition regarding wheelchair user dwellings as conditions requiring compliance with other regulatory regimes do not meet the test of necessity³.
29. The Council's Officer Report suggests more conditions were recommended than those provided to me at the appeal stage. While I have considered these additional conditions, there is limited information in evidence justifying them. Consequently, I cannot be satisfied that any further conditions would be reasonable in addition to those I have already imposed.

Conclusion

30. For the above reasons, having regard to the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal should succeed subject to the conditions in the attached schedule.

N Praine

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: Site Location Plan, 79930/1A Site Layout Plan and Section, 79930/2 Floor Plans and 79930/3 Elevations.
3. No development shall commence on site (including demolition) until such time as a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. As a minimum the plan shall cover:
 - (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 including cumulative impacts which shall demonstrate the following:-
 - (i) Rationalise travel and traffic routes to and from the site as well as within the site.
 - (ii) Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction related activity
 - (iii) Measures to deal with safe pedestrian movement

³ Planning Practice Guidance, paragraph: 005 Reference ID: 21a-005-20190723

- (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) Swept path drawings 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
- (f) The development shall be undertaken in full accordance with the details approved under Parts a-e.
4. Prior to the commencement of the development hereby approved (including demolition and all preparatory work), tree protection measures shall be installed in accordance with the approved Tree Protection Plan as set out in the Arboricultural Report dated 8 January 2021 by Valley Trees. Such measures shall not be moved or removed but shall be retained in situ until completion of the development and all materials and machinery have been removed from the site. All works shall be undertaken in strict accordance with the recommendations made in the Arboricultural Report. Within one week of the installation of the Tree Protection Fencing shown within the tree protection plan, photographic evidence shall be submitted to trees@bromley.gov.uk.
5. (a) Prior to the 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.
- (b) Before the details required to satisfy Part (a) are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (SuDS) to ground, watercourse or sewer in accordance with drainage hierarchy contained within the London Plan and the advice contained within the National SuDS Standards.
- (c) 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 (8l/s/ha) as reasonably practicable and the measures taken to prevent pollution of the receiving groundwater and/or surface water.
- (d) The drainage scheme approved under Parts a, b and c shall be implemented in full prior to first occupation of the development hereby approved and retained as such.
6. Prior to the commencement of development (excluding demolition) details of the proposed slab levels of the buildings 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 and retained as such.

7. i) Prior to the commencement of above ground works details of treatment of all parts of the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or before first occupation of the development, whichever is the sooner and retained as such. Details shall include:
 1. A scaled plan showing all existing vegetation to be retained and trees and plants to be planted which shall include use of a minimum of 30% native plant species of home-grown stock (where possible) and no invasive species
 2. Proposed hardstanding and boundary treatment
 3. A schedule detailing sizes and numbers of all proposed trees/plants
 4. Sufficient specification to ensure successful establishment and survival of new planting
- (ii) There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees.
- (iii) Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details.
8. (a) 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 the construction of any above ground works.

(b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
9. (a) 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 the construction of any above ground works.

(b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
- 10.(a) Prior to the commencement of above ground works, details (including samples) 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 where appropriate shall be submitted to and approved in writing by the Local Planning Authority.

(b) The development shall be carried out in accordance with the approved details and retained as such.

11. Details of the means of privacy screening for all balconies shall be submitted to and approved in writing by the Local Planning Authority before any above ground construction is commenced. The development shall be carried out in accordance with the approved details prior to each balcony being brought into use and permanently retained as such.
12. Before commencement of the use of the land or building hereby permitted the parking spaces and turning space shall be completed in accordance with the details as set out in this planning permission and thereafter shall be kept available for such use and retained as such. No permitted development whether permitted by the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order amending, revoking and re-enacting this Order) or not shall be carried out on the land as to preclude vehicular access to the said land.
13. Before the development hereby permitted is first occupied the proposed first and second floor flank windows facing both Mayfair Court and 1 Canterbury Close shall be obscure glazed to a minimum of Pilkington privacy level 3 and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. Once installed the windows shall subsequently be permanently retained as such.