



Appeal Decision

Site visit made on 25 October 2022

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/G5180/W/22/3297964

Land adjacent to 37 to 45 Oaklands Road, Bromley BR1 3SJ

- 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 Warren Property Investments against the decision of the Council for the London Borough of Bromley.
 - The application Ref DC/21/04617/FULL1, dated 9 September 2021, was refused by notice dated 12 January 2022.
 - The development proposed is described as “erection of three storey building comprising three 1 bedroom apartments with associated parking, bin and cycle storage and amenity space with retained trees and landscaping.”
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effects of the proposed development on i) the character and appearance of the surrounding area including trees; ii) highway safety; and iii) biodiversity and wildlife habitats.

Reasons

Character and appearance

3. The appeal site forms a thin, under-utilised plot located on the western side of Bromley Hill (A21) close to the junction with Oaklands Road. The surrounding area is mainly residential with various properties including dwellinghouses and flatted developments set within a verdant setting. There is an eclectic appearance to the built-up area, with significant variation to the properties in terms of height, bulk, mass, detailing and materials providing an ad hoc character to the built environment.
4. Despite this varied appearance, the verges adjoining Bromley Hill play an important role in adding to the leafy green feel of the area, albeit that the site appears self-seeded and unkempt in comparison to the more maintained grassy space on the opposite side of Bromley Hill. Nevertheless, within the site boundary there are 4 substantial trees¹ subject to a group Tree Preservation Order (TPO) and due to their size and prominence they make a significant and positive contribution to the character and appearance of the area. Furthermore, the appeal site is located in an area described by the Council as a green

¹ Trees T1 (horse chestnut), T4 (common oak), T5 & T6 (both sweet chestnuts) are protected by Tree Preservation Order – 07.11.1960

corridor, which is an important feature of the surrounding area, as it provides a break to development, adding a softer visual appearance.

5. Policies G1 and G7 of The London Plan, March 2021 (LP) highlight the important role green infrastructure has within the urban environment. This is further emphasised in Policies 77 and 78 of the Bromley Local Plan 2019 (BLP) which seek to safeguard the quality and character of local landscapes and green corridors. The supporting text of BLP Policy 78 highlights that green corridors are relatively continuous areas of open space leading through the built environment and need not be very wide. The LP defines green corridors as areas consisting of, amongst other aspects, roadside verges and does not stipulate these should be designated areas. As such, the Councils description as a green corridor is appropriate.
6. The appellant contends that the appeal site does not form an area of open space, and it is not designated as a green corridor and nor was it intended as such. The appellants evidence highlights that the land at the appeal site was retained by Transport for London (TfL) in the event that the A21 required widening, however the land was disposed of and acquired by the appellant. Be that as it may, the appeal site now forms part of an area which can be described as a green corridor, and as such, provides a positive contribution to the character and appearance of the area. It plays an important role as a buffer and the absence of any structures plays a significant part in defining this character.
7. I share the Councils view that taken in isolation, the traditional design, height and materials proposed could be in keeping with the surrounding built environment. However, given the narrow nature of the plot size and retention of the TPO trees, the site layout and overall footprint of the proposal would appear excessively cramped and would have an awkward relationship within the plot. The introduction of a built form into the appeal site would also erode the site's undeveloped nature and its positive contribution to the area as part of the green corridor. It has been put to me that the appeal proposal would not appear cramped given it meets the requirements of BLP Policy 8 in terms of distances to boundaries and that it would appear similar to the spatial standards of other properties in Oaklands Road, in particular Sedgewick Court, which adjoins the site. Be that as it may, this does not lead me to a different view.
8. Its prominent corner plot position means that the proposed development would, despite the screening provided by several trees, be visible from a number of public vantage points, particularly given the well-used nature of Bromley Hill. I appreciate the proposal has been designed around the existing trees and seeks to retain as many as possible. However, I do not consider that this compensates for the loss of the undeveloped nature of the site or its buffer function, and it would not prevent the proposed development from harming the character and appearance of the area.
9. The appellant's Arboricultural Method Statement (AMS) shows the methods employed in the proposed groundworks of the appeal scheme, and the extent of the protection measures incorporated on the root protection areas of the retained trees. Whilst seven trees are proposed to be removed, the trees subject to the TPO are all to be retained, albeit with minor works involving the removal of deadwood and ivy, and a crown lift. I recognise that the trees may

be able to withstand some pruning to enable the proposal to be constructed. However, due to the close juxtaposition between the trees, in particular T4, and the proposed development, it seems to me that there would be an inevitable need for more regular and extensive pruning, to maintain sufficient clearance. In addition, there is likely to be increased pressure to prune due to the degree of shading that would be experienced within the proposed development and its garden.

10. The appellant considers that the use of appropriate conditions could protect the retained trees and would mitigate any harm. However, the need for more extensive and regular pruning would diminish the contribution the trees make to the character and appearance of the area and, in combination with the reduced space for roots, decrease their life expectancy. As such, I am not persuaded that the imposition of a condition would mitigate the likelihood of further harm to the character and appearance of the area arising from the development's effect on trees in the long term.
11. My attention has been drawn to other examples of similar scrubland and verges along Bromley Hill which have been altered and lost overtime which are said to provide a more enclosed and developed nature in the immediate area. Whilst it is acknowledged that these developments provide a managed and developed appearance, these are limited examples and do not provide an overriding influence over the character of the area or street scene.
12. For the reasons above, the proposal would have an unacceptable effect on the health and life expectancy of the trees and would not compliment the qualities of the surrounding area or respect the important landscape features. Furthermore, the appeal scheme would provide a cramped form of development at odds with the natural and verdant locality, and thus would significantly harm the character and appearance of the surrounding area. Accordingly, it would be contrary to LP Policies G1, G7 and D3 and BLP Policies 4, 37, 73, 77 and 78 which collectively seek to secure high quality development in the Borough without compromising local character, the green environment or the local appearance, amongst other things. The proposal would also conflict with the National Planning Policy Framework 2021 (the Framework) insofar as it requires development to be sympathetic to local character and seeks to safeguard significant trees due to their contribution to character and quality of urban environments.

Highway safety

13. The Council raise concerns in respect to highway safety given the provision of the off-street parking and the proximity to the street tree and junction with the red route. Whilst the proposal would provide off-street parking for three vehicles on the forecourt, I have not been supplied with any evidence in respect to the provision of sightlines or swept path analysis to ensure safe access and egress, nor are there any details highlighting that disabled parking could be accommodated on the confined site. Given the relatively tight forecourt area, I therefore cannot be certain that either parking provision or access arrangements would be safe and meet the required standards.
14. I acknowledge that Oakland Road is one way with no access from Bromley Hill and that the appellant contends that the sightlines and swept paths could be secured through a condition. However, while conditions can ensure that otherwise unacceptable development could be made acceptable, for example to

secure receipt of further detailed technical information, without sightlines or swept path analysis, I cannot be sure that conditions would in this case be sufficient to make the development acceptable in highway terms.

15. Furthermore, whilst conditions could be attached to secure sufficient cycle parking and refuse/recycling arrangements, given the confined nature of the site and the presence of preserved trees, the requirement for these structures could place additional unassessed pressure on these trees. As such, without further information in respect to their final positioning these aspects also cannot be secured by condition.
16. For the above reasons, I conclude that insufficient evidence has been supplied and as a result it has not been adequately demonstrated that the proposal would not have a detrimental impact on highways safety or provide adequate provision for disabled car parking, cycle parking, deliveries and services. The proposal would therefore be contrary to the LP Policies T5 and T6 and BLP Policies 30 and 32 which amongst other things seek to provide adequate car and cycle parking and ensure that road safety is not adversely affected. The proposal would also be contrary to Paragraph 111 of the Framework as it has not been adequately demonstrated that there would not be an unacceptable impact on highway safety.

Biodiversity and wildlife habitats

17. The appellant's Preliminary Ecological Appraisal (PEA), submitted with the appeal sets out that the site comprises neutral grassland with scattered scrub, other woodland scattered trees and bramble scrub. Whilst the neutral grassland with scattered scrub and bramble are considered common and of site value only, the woodland scattered trees are of higher ecological value and the PEA provides recommendations to limit any harm to these habitats. The PEA further advises that owing to the lack of suitable habitats and connectivity, the appeal site is not considered to be inhabited by protected species.
18. The PEA highlights the grassland and scattered scrub could be sensitively managed during the construction phase. Furthermore, despite the onsite trees providing habitats for birds within which to nest, and the potential for foraging and commuting bats, the PEA proposes biodiversity enhancement recommendations to ensure that as much habitat as possible is retained post development. As such, even if the proposed removal of the trees identified for felling, and any other pruning works previously identified to existing trees was to be undertaken, the effective management of existing habitats could still be achieved. These biodiversity enhancement recommendations could be secured by condition. The Council has not submitted any evidence to counter the findings of this study, and what has been submitted by the appellant satisfactorily demonstrates that any harm to habitats could be suitably mitigated due to the measures proposed.
19. Consequently, I conclude that the proposal would not harm biodiversity and wildlife habitats. It would therefore accord with BLP Policy 73 which amongst other things, seek to manage and enhance biodiversity.

Other Matters

20. The Council accepts that it cannot demonstrate a five-year housing land supply (FYHLS) at present. In its evidence, the Council considers that FYHLS is 3,245

units, or 3.99 years supply. I have had regard to these figures when considering the extent of the shortfall.

21. Paragraph 11 of the Framework sets out that for applications involving the provision of housing where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted.
22. As such, and on the basis that there are no specific Framework policies which provide a clear reason for refusing the development proposed, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits.
23. The proposed development would provide three additional dwellings which would assist the Council in addressing its housing undersupply. As identified by the Framework, small sites such as this can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The sufficiently sized units would also be located in an accessible location on a site that is within an identified renewal area and is neither allocated nor subject to any specific restrictive policies. However, the benefits would be relatively limited given the scale and nature of the proposed development. I have identified that the proposal would result in significant harm to the character and appearance of the area, and it has not been demonstrated that there would be no harm to highway safety. The adverse impacts of granting permission would therefore significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

Planning Balance

24. Bringing together my conclusions on the main issues I have had regard to the benefits of the appeal scheme, in that the proposal would provide three additional dwellings in an accessible area identified for renewal and on an underutilised site that could be built out relatively quickly. I am in no doubt as to the positive value of these matters and I recognise that the appeal proposal may well accord with various other development plan policies. However, neither the benefits of the scheme nor any other matters provide clear and convincing justification to outweigh the harm identified to the character and appearance of the area and highway safety, that would justify allowing the appeal.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR