



Appeal Decision

Site visit made on 30 November 2022

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Appeal Ref: APP/G5180/W/21/3287713

10 Derwent Drive, Petts Wood, Orpington BR5 1EW

- 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 planning permission.
 - The appeal is made by Mr Basant Mertia against the Council of the London Borough of Bromley.
 - The application, Ref DC/21/03566/FULL6, is dated 16 July 2021.
 - The development proposed is described as: Proposed ground floor front, side and rear extension, garage conversion, façade alterations, driveway, floor plan redesign and all associated works.
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Decision

1. The appeal is allowed and planning permission is granted for: Proposed ground floor front, side and rear extension, garage conversion, façade alterations, driveway, floor plan redesign and all associated works; at 10 Derwent Drive, Petts Wood, Orpington BR5 1EW, in accordance with the terms of the application, Ref DC/21/03566/FULL6, dated 16 July 2021, and the plans submitted with it, subject to the conditions set out in the Schedule at the end of this Decision.

Application for Costs

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

Preliminary Matters

3. I have dealt with other appeals on this site. These are the subject of separate Decisions, Ref APP/G5180/X/21/3283102 and APP/G5180/D/21/3289055.
4. The description of development in the heading above has been taken from the planning application form. A different description has been used on the Council's acknowledgment letter but neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

5. Since the appeal was lodged a decision has been made by the Council to not contest the appeal. So the main issue in this appeal is whether there are any considerations that might indicate that the appeal should be dismissed.

Reasons

6. I have carefully reviewed the representations received in response to this application and this appeal. Objections to the proposals focus on 3 principal areas of concern: the permeable slabs for the driveway, the porch extension and other applications on the site.
7. The Council has considered the permeable slabs which constitute part of the proposals and it has raised no objection, taking into account effects on the character and appearance of the area, noise and disturbance and highways. I see no reason to disagree with the Council's assessment in these respects, noting in particular, variation that I observed in how the area to the front of each property in this group of bungalows is treated.
8. Concern is raised in the representations about surface water drainage. But the proposed block plan is clearly annotated to show the entire driveway is to be paved with permeable slabs. So I am satisfied that the development would not have any material effect on surface water drainage or flooding and nothing has been provided to lead me to an alternative view.
9. Concern has also been raised about fumes from vehicle movements, as a consequence of the permeable slabs to provide additional car parking, close to a bedroom window of the adjoining bungalow. But I do not accept that the short period of time it would take to manoeuvre a car in this area would have a material effect on the living conditions of occupants of the adjoining property due to fumes, when its front windows are open.
10. In any event, the appellant has indicated that paving of the front garden with permeable slabs is 'permitted development' under Schedule 2, Part 1, Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). The Council has not disputed this contention and there is nothing before me to lead me to an alternative view.
11. As such, I consider this permitted development right is a material consideration which should be afforded significant weight in my decision. Based on the cases put to me, it seems to me there is a real prospect of the permeable slabs being implemented, even if I were to dismiss the appeal, as a result of the fallback position provided by the Order, noted above. For the same reason, I do not consider the permeable slabs should be resisted on the basis that they may provide car parking in excess of maximum standards.
12. My attention has been drawn to the possibility of vehicles driving over the footway and raised kerb in order to access the additional parking space provided by the permeable slabs. But were this to occur, this is a matter controlled under other legislation and so, in my view, this is not a good enough reason to dismiss the appeal.
13. Concern has also been raised that, as a result of the above, on-street parking would be lost. But given there is no proposal to extend the existing dropped kerb, I do not accept this is the case.
14. The representations received seek details of the removal of spoil from the front garden and further details of the permeable paving. But the section drawings that my attention has been drawn to do not show that spoil is to be removed and I do not consider that further details of the paving are required given that it is specifically identified as permeable on the drawings. Moreover, the Council

raises no objection to the paving and the evidence indicates it could be implemented anyway, even if I were to dismiss the appeal.

15. Taking all of the above into account, I find no conflict with Policy 37 or Policy 115 of the Bromley Local Plan or Supplementary Planning Guidance (SPG) 1 that have been referred to in the representations received. I appreciate that the permeable slabs may in effect create a large area of hardstanding and that this does not accord with SPG 2. This is a material consideration in this case. But the aforementioned permitted development right is also a material consideration and I give this more weight than the conflict with SPG 2.
16. The Council describes the proposed porch extension as identical to the porch considered under a previous application and I am satisfied this is the case in terms of its size and position. Whilst the previous application was dismissed on appeal, Ref APP/G5180/D/3263465, dated 27 April 2021, the Inspector raised no objection to the porch extension. I see no reason to either, even taking into account its different window design, noting that there is variation in the design of porches in this group of bungalows.
17. Representations received seek a different design for the porch, avoiding a solid flank wall. But this is not the proposal before me and in light of the above I see no reason to object to the porch. I realise that the permeable paving proposed would mean the porch extension would be seen in a different context to that proposed in the previous application. But this makes no difference to my assessment in this case.
18. Other applications have been made on the site. But there is no limit to the number of different applications that an applicant may make, whether simultaneous or not, or to the number of permissions covering the same site. So other applications or permissions are not a basis for refusal of this application.
19. Representations received state that the proposals are incompatible with other applications and do not correspond with each other, such that it would not be possible to construct them together in accordance with the details of the approved plans. Be this as it may, what would be granted by this application is only for this proposal, as described on its drawings. If a different development were implemented, that does not benefit from planning permission, it would be open to the Council to consider the expediency of planning enforcement action.
20. Moreover, if the implementation of one permission, in accordance with its terms and conditions, would make it physically impossible to implement another permission, in accordance with its terms and conditions, then it is likely the second permission could not be lawfully implemented in any event.

Conditions and Conclusion

21. The Council has suggested conditions which I have considered taking account of advice in the National Planning Policy Framework (the Framework) and Planning Practice Guidance. As a result I have amended some of them for consistency, enforceability, clarity and reasonableness and not imposed others.
22. The standard time condition is necessary in the interests of certainty, as is a condition listing the approved plans. A condition controlling the materials is

- necessary in the interests of the character and appearance of the area and, in the case of the permeable paving, to minimise any surface water flooding.
23. The fourth condition suggested by the Council seeks the inclusion of landscaping areas and drainage channels, 'where appropriate'. But in light of the permeable nature of the slabs proposed and what is said in the Council's report, it has not been explained by the Council why such features are necessary. Moreover, there is no explanation why a clause is necessary to prohibit development which may preclude vehicular access to the land or 'garages', particularly given it is proposed that the garage is converted. So I have not imposed any condition to the above effect.
24. The fifth condition suggested by the Council, relating to drainage, is not necessary given the permeable nature of the slabs proposed and given that there is no evidence that the development would have any material effect on surface water drainage.
25. The sixth condition suggested by the Council seeks a landscaping scheme. But this is not necessary given what is already shown on the plans provided for the land to the front of the property. There is no justification for a landscaping scheme for the rest of the land as it is either already an established garden or would be covered by buildings. Moreover, a landscaping scheme for the rest of the site would not relate to the development to be permitted.
26. The seventh condition suggested by the Council would remove permitted development rights for the enlargement of the dwellinghouse consisting of an addition or alteration to its roof. But no proper explanation has been provided by the Council for why such a condition is necessary. Moreover, it does not relate to the development to be permitted so I have not imposed any condition to this effect.
27. I note that the Council's report lists a different set of conditions to those finally suggested and states: "Any other planning condition(s) considered necessary by the Assistant Director of Planning". But this is no answer to how all the conditions finally suggested comply with the 6 tests for conditions set out in paragraph 56 of the Framework.
28. Subject to the imposed conditions noted above, the appeal should be allowed, for the reasons given above.

L Perkins

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: B99825 - 01 - 1100 A, 1101 A, 1200 A, 1201 A, 1300 A, 3100 A, 3101 A, 3200 A, 3201 A, 3300 A and 3500 A.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan nos. B99825 - 01 – 3200 A, 3201 A and 3500 A.