



Appeal Decision

Site visit made on 6 October 2022

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2023

Appeal Ref: APP/G5180/W/21/3285323

21 Alexandra Road, Biggin Hill TN16 3NZ

- 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 Turnbull Land against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/03444 is dated 7 July 2021.
 - The development proposed is the demolition of existing bungalow and the erection of three 2 bedroom terraced houses fronting Alexandra Road and a pair of 3 bedroom semi-detached houses accessed from Flamborough Close with associated access and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing bungalow and the erection of three 2 bedroom terraced houses fronting Alexandra Road and a pair of 3 bedroom semi-detached houses accessed from Flamborough Close with associated access and parking at 21 Alexandra Road, Biggin Hill TN16 3NZ in accordance with the terms of the application, Ref DC/21/03444, dated 7 July 2021, subject to the conditions set out in the attached schedule.

Application for costs

2. There was an application for costs by Turnbull Land against the Council of the London Borough of Bromley. This application is the subject of a separate decision.

Preliminary matters

3. The appeal form states that the Council has failed to give notice of its decision within the appropriate period because of a dispute over the provision of local list documentation. However, the appellant's final comments on the appeal state that there was no such dispute and the application was validated on the day it was submitted.
4. Reviewing the appeal documents as a whole, it appears to me that this was an error on the appeal form and that the intention was to appeal against a failure to give notice within the appropriate period. The appellant's case has been put on that basis and the Council has responded accordingly. Consequently, no party would be prejudiced by the appeal being determined on the basis of the statements before me, notwithstanding the error on the appeal form.

5. A previous proposal for the redevelopment of the same site was the subject of an appeal decision that was issued in February 2022¹. The scheme considered in that appeal was similar to the current appeal scheme, with three terraced houses fronting Alexandra Road and two semi-detached houses accessed from Flamborough Close. This decision is therefore an important material consideration in relation to the current appeal. The Council has been given an opportunity to comment on this appeal decision.
6. The appellant has made some changes to the first proposal, including reducing the height of the proposed buildings, which were intended to address the Council's objections.

Main issues

7. The main issues are:

- the effect of the proposal on the character and appearance of the area; and
- the effect of the proposal on the living conditions of nearby residents and future occupiers of the proposed dwellings.

Reasons

Character and appearance

8. The appeal site is located within a predominantly modern residential area, within the settlement of Biggin Hill. Development has taken place along the floor and lower slopes of a steeply sided valley, with the upper slopes being mainly wooded. This has created a locally distinctive environment, characterised by changes of level and views of trees on either side of the valley. The built form is very varied, including bungalows, chalet bungalows, two storey and three storey development.
9. The site itself comprises a rectangular residential plot containing a bungalow, which is set well back from Alexandra Road. The land rises steeply from the Alexandra Road frontage up towards Flamborough Close. On the Alexandra Road frontage there are semi-detached bungalows on either side of the appeal property, at Nos 19a and 27. On the Flamborough Close frontage, there is a semi-detached house on one side (No 11) and garden land on the other.
10. The Inspector who dismissed the previous appeal considered that the terraced properties would be out of keeping with the street scene of Alexandra Road, due to the height difference between the proposed houses and Nos 19a and 27 and because they would have had a narrow-fronted vertical emphasis which would have drawn attention to their incongruity.
11. The design has been amended by removing the accommodation previously proposed in the roof space, enabling a lower roof pitch and a reduced overall height. These changes pre-dated the appeal decision. As noted above, they sought to respond to the Council's objections. Nevertheless, I consider that the design changes would resolve the concerns identified in the appeal decision. Proposed House 1, adjacent to No 19a, would be sited at a lower level than the

¹ Appeal Ref: APP/G5180/W/21/3275256 relating to the demolition of the existing bungalow and the erection of 3 x 3 bedroom terraced houses fronting Alexandra Road, and a pair of 3 bedroom semi-detached houses accessed via Flamborough Close

neighbouring property. The changes to the design are such that the height difference would be reduced to 1.7m. Moreover, with a reduced roof pitch, the gable would be a less dominant feature. Although there would be a greater height difference between proposed House 3 and No 27, proposed House 3 would be set further back from the frontage, reducing its impact in the street scene.

12. The reduced roof pitch would make the roofs a less dominant feature. I consider that this change, together with an adjustment to the window proportions, would avoid the strong vertical emphasis referred to in the appeal decision. The mass of the terrace would be articulated by differences in floor levels, which would step up from left to right, and by the slightly staggered elevation. Having regard to the varied nature of built form in the locality, I do not think that the design differences between the proposed terrace and the existing properties on either side would be harmful.
13. Proposed Houses 4 and 5 would be sited below the level of Flamborough Close, with their entrances at the upper level. This access arrangement, together with their simple linear form, height and siting, would be a continuation of the established pattern of development on the north-west side of Flamborough Close. The Council has not objected to this aspect of the design. Although some trees would be removed to facilitate the development, they are of low quality and make only a limited contribution to the amenity of the area.
14. I conclude that the proposal would not appear out of keeping in the context of the varied and locally distinctive environment described above. It would not be harmful to the character and appearance of the area. The proposal would accord with Bromley Local Plan Policy H4, which seeks to promote good design whilst respecting local character, and with London Plan Policy D3 which seeks to make the best use of land by following a design-led approach.

Living conditions

15. No 19a has a window facing towards Alexandra Road, adjacent to the boundary with the appeal site. Although proposed House 1 would be set further forward than No 19a, I note that the proposed building would not encroach within a line drawn at 45 degrees from the front facing window of No 19a. I consider that this layout would avoid an unduly enclosing effect in views out from No 19a. It would also ensure that there would not be an unacceptable impact on daylight. No 19a also has a glazed door and small window in its flank elevation. I consider that there would be sufficient separation here for an acceptable flank-to-flank relationship. This finding is consistent with the view of the Inspector who considered the previous appeal.
16. The Council alleges that there would be overshadowing of No 19a, although it is not clear which windows are claimed to be affected. The front-facing window has a north-westerly aspect, so will not receive direct sunlight in any event. The glazed door and small flank window would lose some sunlight. However, it is not uncommon for such openings, in a flank elevation, to be faced by a neighbouring property. To my mind this would not be an impact of such significance as to warrant refusal.
17. The occupier of No 11 Flamborough Close is concerned about the loss of daylight to a glazed door and a window serving a kitchen and a bathroom window. These openings are in the flank elevation of the property. There is a

front-facing window which also provides light to the lower ground floor level. The bathroom window is at the upper level and I consider that there would be sufficient space between the two buildings for it to continue to receive adequate daylight.

18. The previous appeal Inspector found that the separation distances within the scheme would be acceptable. She also noted that any overlooking of Nos 19a and 27 Alexandra Road and No 11 Flamborough Close would be oblique, rather than direct, and that any overlooking of No 19a would be no worse than overlooking from the existing bungalow and its garden when it was occupied. Her overall assessment was that there would be no unacceptable impacts in terms of overlooking. From my own observations on site, I agree with that conclusion.
19. I conclude that the proposal would not be harmful to the living conditions of neighbouring residents and would provide satisfactory living conditions for future occupiers of the appeal scheme. The proposal would accord with Local Plan Policy 37 which, amongst other matters, requires that development should respect the amenity of occupiers of neighbouring buildings and those of future occupiers, including in relation to privacy and daylight.

Other matters

20. Objections have been received from neighbouring occupiers, relating to the matters of character and appearance, overlooking and daylight that have been discussed above. Concerns are also raised in relation to parking and drainage. However, the Council's highways officer has commented that the proposed parking spaces comply with London Plan guidance. The Council's drainage engineer has advised that drainage could be addressed by the imposition of an appropriate condition. These are not matters that weigh against the grant of planning permission.
21. The Council cannot currently demonstrate the five year supply of housing sites required by the Framework. The proposal would make a modest contribution to supply, with a net gain of four units. This is a factor that weighs in support of the appeal.

Conclusion

22. I conclude that the proposal would be in accordance with the development plan. The contribution to housing supply is a further consideration weighing in favour of the appeal. I have not identified any considerations that indicate a decision other than in accordance with the development plan. The appeal should therefore be allowed.

Conditions

23. The Council has suggested conditions which I have considered in the light of Planning Practice Guidance. In some cases I have adjusted detailed wording in the interests of clarity and/or consistency. However, except as indicated below, the substance of the conditions I have imposed follows the Council's suggestions.
24. Condition 2 requires development to be carried out in accordance with the plans, in the interests of clarity and certainty. In place of a suggested condition requiring facing materials to match the existing building, I have imposed

Condition 3, which requires details of facing materials to be approved, thereby enabling the two street frontages to be considered separately. This is necessary in the interests of the character and appearance of the area.

25. I have merged two suggested conditions relating to parking and turning areas, to avoid duplication and because there is no need to submit details of features that are shown on the plans. Condition 4 requires implementation of the parking and turning areas shown on the plans, in the interests of highway safety and in order to make proper provision for the vehicles of future occupiers. I have not imposed a suggested condition relating to a vehicle wash down facility because this matter would be addressed in the Construction and Environmental Management Plan, which is secured by another condition.
26. Condition 5 requires approval of details of storage arrangements for refuse and recycling, in the interests of sustainable development. Condition 6 requires approval of details of lighting for the parking areas, in the interests of visual amenity and community safety. Condition 7 requires the existing access to the highway to be stopped up, in the interests of highway safety. Condition 8 requires approval of a Construction and Environmental Management Plan, in the interests of amenity and highway safety. This is a pre-commencement condition because it addresses impacts that would arise during construction.
27. Condition 9 requires approval of a surface water drainage system, in the interests of managing risks of flooding and pollution. Condition 10 limits the gradient of any access to the highway, in the interests of highway safety. Condition 11 requires details of cycle storage, in the interests of sustainable transport. Condition 12 requires approval of a Road Safety Audit for the access works, in the interests of highway safety.
28. I have not imposed a suggested condition relating to a road condition survey because this addresses a matter that is covered under other legislation. I have not imposed a suggested condition requiring submission of details of the access, nor a suggested condition requiring visibility splays that would not accord with the submitted plans. These features are shown on the plans and Condition 2 requires that development is carried out in accordance with those plans. Instead, I have imposed Condition 13 which requires that the visibility splays shown on the plans are to be provided and thereafter retained.

David Prentis

Inspector

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following plans:
 - Location plan
 - Proposed site plan – 005/PA/01/D
 - Existing site plan – 005/PA/02
 - Site sections – 005/PA/03/C
 - House type 1 plans and elevations – 005/PA/04/B
 - House type 2 plans and elevations – 005/PA/05/C
 - Proposed street scene elevations – 005/PA/06/A
 - Existing street scene elevations – 005/PA/07/A
 - Site plan and visibility splays – 005/09
- 3) Prior to the construction of any above ground works details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) Before commencement of the use of the development hereby permitted parking and turning spaces shall be completed in accordance with the approved plans and thereafter shall be kept available for such use and no development whether or not permitted by the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order amending, revoking and re-enacting this Order) shall be carried out on the land in such a position as to preclude vehicular access to the said parking and turning spaces.
- 5) Prior to the construction of any above ground works details of arrangements for storage of refuse and recyclable materials (including means of enclosure) shall be submitted to and approved in writing by the Local Planning Authority. The approved arrangements shall be completed before any part of the development hereby permitted is first occupied and thereafter shall be permanently retained as such.
- 6) Prior to the construction of any above ground works details of a scheme to light the accesses and car parking areas hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall accord with BS 5489 - 1:2003. The approved scheme shall be implemented before any part of the development hereby permitted is first occupied and thereafter shall be permanently retained as such.
- 7) The existing access shall be stopped up at the back edge of the highway before any part of the development hereby permitted is first occupied in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The footway shall be reinstated and the approved details shall be implemented before any part of the

development hereby permitted is first occupied and thereafter shall be permanently retained as such.

- 8) No development shall commence on site (including demolition) until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
- 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) hours of operation; and
 - e) details of construction traffic movements including cumulative impacts which shall demonstrate the following:
 - i. traffic routes to and from the site;
 - ii. the number and time of construction vehicle trips to the site;
 - iii. measures to deal with safe pedestrian movement;
 - iv. 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; and
 - 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.

Development shall be undertaken in full accordance with the approved CEMP.

- 9) Prior to the commencement of above ground works details of the surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The drainage system shall prevent the discharge of surface water from private land onto the highway. The approved details shall be implemented before any part of the development hereby permitted is first occupied and thereafter shall be permanently retained as such.
- 10) The gradient of any access shall not exceed 1:10 at any point.
- 11) Prior to the construction of any above ground works 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. The approved details shall be implemented before any part of the development hereby permitted is first occupied and thereafter shall be permanently retained as such.
- 12) Prior to the construction of the access/highway works a Stage 1 and a Stage 2 Road Safety Audit shall be submitted to and approved in writing by the Local Planning Authority. The access/highway works shall be implemented in accordance with the approved Road Safety Audits before any part of the development hereby permitted is first occupied.
- 13) The visibility splays shown on the plans hereby approved shall be provided before any part of the development hereby permitted is first

occupied and there shall be no obstruction to visibility in excess of 1m in height within the approved splays. Thereafter the visibility splays shall be permanently retained as such.

End of schedule