



Appeal Decision

Site visit made on 11 January 2023

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 07 JULY 2023

Appeal Ref: APP/G5180/W/22/3301585

El Joyre, Lillie Road, Biggin Hill, TN16 3QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Nigel Styles of South East Living Group against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/01579, dated 1 May 2020, was refused by notice dated 10 June 2022.
 - The development proposed is the demolition of existing dwellings and erection of 4 detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwellings and erection of 4 detached dwellings at El Joyre, Lillie Road, Biggin Hill, TN16 3QB in accordance with the terms of the application, Ref DC/20/01579, dated 1 May 2020, and subject to the conditions in the attached schedule.

Preliminary Matters

2. Notwithstanding the slightly amended description of the development proposed given in the appeal form, I am required to consider the appeal on the basis of that provided on the original application form, as indicated in the banner heading.
3. Outline planning permission is sought; therefore, I have considered only those elements on the plans which relate to access and layout. Any other details are deemed as illustrative.

Main Issue

4. The main issue is the effect of the proposed development upon the character and appearance of the surrounding area.

Reasons

5. The application site consists of two detached bungalows with associated curtilages and outbuildings at the rear. Both properties are situated off a residential street. There are a variety of property types in the area, which includes chalet style bungalows, terraced three storey properties and semi-detached bungalows. Although not typical, there are properties which have been developed to the rear of 31 and 33 Lillie Road, which indicates that a backland development is not unprecedented in the area. This breadth of property types informs the relatively diverse character of the immediate area,

which does not have a singular architectural style, such that building lines are often inconsistent.

6. The existing bungalows are in poor condition and their respective gardens contain a significant amount of vegetation and overgrown brambles. The appeal site is unusually large for two properties, in comparison with plots of other properties in the area.
7. I acknowledge previous applications for 8 and 6 dwellings at the appeal site, however, the scheme before me is for four dwellings. This represents a low density of development in the context of the large size of the site and the limited two storey height of the new dwellings. This low density remains the case notwithstanding the inclusion of vehicular parking, cycle storage and bin stores in the centre, due to the large size of the individual plots. This size ensures that there is a satisfactory balance of outdoor space to construction for each dwelling, which is comparable to adjacent properties. Regarding visibility, the appeal site is located on a slanted incline, resulting in the garden area of the site sloping downwards away from the road, ensuring low visibility from public views. Additionally, the hedging and tree planting proposed would further lessen the overall visibility of the proposed development. As such, the visual impact of the proposed development has been sufficiently reduced to be considered acceptable.
8. The position of two dwellings to the front of the site would retain the same basic layout as the existing properties at the appeal site, striking a comparable relationship with the road and the front building line of neighbours, notwithstanding that the increase in the height of the dwellings. Regardless, the proposed development would not be a significant alteration of the existing visual profile of the application site and would be a visual improvement in relation to the derelict condition of the existing properties.
9. While the proposed development makes provision for the development of 8 parking spaces in the centre of the appeal site, the principle of backland parking has already been established by existing dwellings in the locality. Although there would be an increase in the density of parking at the appeal site in comparison with those existing dwellings, it would not be a significant departure in character and appearance of the area as a whole. Additionally, the parking spaces, turning area and bins would largely be screened from public views, by the slanted incline of the application site and the additional screening from the front properties and vegetation. Although the proposal represents backland development, it would assimilate with the other two and three storey dwellings in the immediate area. As such, it would not appear out of place or cause visual harm to the surrounds as a result of its backland placement, with specific regard to the two existing backland dwellings behind 31 and 33 Lillie Road and the wider area. Accordingly, the construction of two storey dwellings as a result of the proposed development would not out of keeping with or harmful to the appearance of the surrounding area.
10. At the time of my site visit, the appeal site had been overgrown by dense vegetation, trees and other shrubbery. A significant section of this green space would be retained within the site in the form of private gardens and shared landscaped area. While the extent of vegetation would decrease, the proposed development would still contribute to the site's value to the locality as visual

amenity space, albeit in a more confined format. Accordingly, it would continue to have a positive effect on the appearance of the locality.

11. In conclusion, the proposed development would not have an unacceptable effect result upon the character and appearance of the surrounding area. Accordingly, it would reach a high standard of design and layout in compliance with Policies 3, 4 and 37 of the Bromley Local Plan (2019). The proposed development would positively respond to local distinctiveness and meet design requirements in compliance with Policies D3 and D4 of the London Plan (2021). Additionally, the proposed development would optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development, in accordance with section 12 (Achieving Well-Designed Places) of the National Planning Policy Framework (2021).

Other Matters

12. In terms of protected species, the badger survey found that the sett situated on the site is likely to be an outlier or subsidiary sett, therefore the effect on the habitat is considered acceptable. Further surveys determined that bats did not exist in the two existing bungalows, therefore there is no harm to this species. While they may be present at the appeal site, foxes are not a protected species. There is no compelling evidence before me which indicates that slow worms are present on the appeal site. Accordingly, given that there is limited information before me to find that the proposed development would not comply with the biodiversity objective of the NPPF, I have imposed conditions to ensure that the natural environment remains protected.
13. In terms of overlooking, the plans indicate that a mixture of new trees and planting, alongside existing vegetation will be used to screen the appeal site.
14. The use of privacy screens, planting and the slanted nature of the site would ensure no clear views of the proposed dwellings from neighbouring properties. The location of the parking bays in the middle of the appeal site would lead to an increase in noise and emissions, however, I do not consider this to be unacceptable given the overall urban environment, the limited number of additional vehicles and the large size of the appeal site. As the parking bays will provide adequate parking for future residents of the appeal site, it is unlikely that there would be an unacceptable effect on existing parking in the street. While disruptive, any additional road traffic to construct the proposed development will be temporary and will be mitigated through condition. Accordingly, these effects in relation to living conditions for occupiers of neighbouring properties are considered acceptable.
15. I have considered representations regarding the heritage value of the appeal site, however, there is no information before me which indicates that English Heritage have any interest in the site.

Planning Balance

16. The Council accepts in its appeal statement that it cannot demonstrate a five-year housing land supply at present. However, I have found that the proposed development complies with the development plan and there are no material considerations which indicate that permission should not be given. As such, permission will be granted.

Conditions

17. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity.
18. Details regarding appearance, landscaping and scale, are necessary to ensure that the proposed development has an acceptable effect on character and appearance. In addition to the standard time limit condition regarding the submission of these reserved matters, I attach a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty, as is a condition requiring slab levels. To ensure that the proposed development remains accessible for disabled people, I attach a condition which requires the approval of a disabled access scheme.
19. As class A, B, C and E of the Town and Country Planning (General Permitted Development) Order 2015 relate to development which affect the open nature of the character, including works to the roofs of buildings, I attach a condition which restricts permitted development rights, as there is clear justification for its use in accordance with paragraph 54 of the Framework. To ensure that sustainable transport objectives are ensured, conditions regarding the size of parking spaces, bicycle parking and electric charging locations are attached. To ensure the safe and free flow of traffic, a condition regarding sight lines, the height of the access road, the cleaning of vehicles, the aggregation of loose materials and turning areas is attached. To ensure adequate facilities for future occupiers of the development are provided, conditions regarding refuse and the lighting of car parking is attached. To ensure that surface water drainage works are satisfactory and to reduce the risk of flooding, a condition is attached.
20. To ensure that construction disruption is minimised, I attach a condition requiring the approval of a construction and environmental management plan. In order to ensure that wildlife and biodiversity objectives are safeguarded, I attach conditions in relation to biodiversity enhancements and what works are permitted during the bird nesting season.
21. There are conditions suggested by the Council which relate to landscaping, cladding and existing access to the back edge of the highway. I have omitted them as they are considerations which should be dealt with as reserved matters or are otherwise not necessary for this outline permission. Similarly, I have omitted a condition which relates to the condition of the highway, as it has not been evidenced that it is necessary at this location.

Conclusion

22. For the reasons given above, I conclude that, subject to the above conditions, and having had regard to all other matters raised, the appeal should be allowed.

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INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan (Scale 1:1250); 920:1146/PL102; 19-745-TPP-B insofar as they relate to access and layout.
- 5) Prior to 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.
- 6) Prior to the occupation of the development details of the provision to be made for disabled people to gain access to the development shall be submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use and shall be retained thereafter.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no building, structure, extension, enlargement or alteration permitted by Class A, B, C, or E of Part 1 of Schedule 2 of the 2015 Order (as amended), shall be erected or made within the curtilage(s) of the dwelling(s) hereby permitted without the prior approval in writing of the Local Planning Authority.
- 8) Parking bays shall measure 2.4m x 4.8m and there shall be a clear space of 6m in front of each space (or 7.5m if garages are provided) to allow for manoeuvring and these spaces shall be permanently retained as such thereafter.
- 9) Prior to the occupation of any of the dwellings hereby approved sightlines of 43m X 2.4m x 4.3m either side of the proposed access shall be provided. There shall be no structure or erection exceeding 1m in height within this sight line. The splays shall be retained in perpetuity.
- 10) Prior to the occupation of any of the dwellings hereby approved the following information shall have been submitted to and approved in writing by the local planning authority. The arrangements as approved shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
 - (a) Levels details for the entrance, access road and parking areas
 - (b) Turning areas within the site

- (c) Arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary)
 - (d) Scheme to light the access drive and car parking areas hereby permitted.
- 11) The development hereby permitted shall not be occupied until the parking spaces and/or garages and turning space are completed in accordance with the details as set out in ground floor and site plan (920:1146/PL102). Thereafter they shall be kept available for such use.
- 12) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. 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 and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and, provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 13) Prior to the occupation of the development the details of the surfacing of the parking or turning area have been submitted to and approved in writing by the local planning authority. The surfacing shall be permanently retained thereafter.
- 14) 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) Measure 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.

- (iv) Full contact details of the site and project manager responsible for day-to-day management of the works
 - (v) Parking for operatives during construction period
 - (vi) A 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) Other site-specific Highways and Environmental Protection issues as requested on a case by case basis
 - (g) wash-down facilities for cleaning the wheels of vehicles
 - (h) removal of any accidental accumulation of mud on the highway by caused by vehicles

The development shall be undertaken in full accordance with the details approved under Parts a-h for the duration of the construction period.

- 15) Prior to the occupation of any dwelling details of arrangements for bicycle parking for that dwelling (shall be submitted to and approved in writing by the local planning authority. These arrangements as approved shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
- 16) Prior to the occupation of the development details of the ecological enhancements, including an implementation timetable, as outlined in the Preliminary Ecological Appraisal shall be submitted to and approved in writing by the local planning authority and permanently retained at the site thereafter.
- 17) The site shall not be cleared (including tree and scrub removal) during bird nesting season, late February-August (inclusive). If this is not possible, then an inspection by a qualified ecologist must be completed a maximum of 48hrs before works commence. If during the inspection a nest considered to be in use is discovered, works must be delayed until the young have fledged.
- 18) Prior to first occupation of the dwellings hereby permitted a minimum of 20% of car parking spaces shall be provided with active electric vehicle charging points and a minimum of 80% car parking spaces will be provided with passive electric vehicle charging points and these shall be permanently retained thereafter. Details of the location of the spaces fitted with EVCP and the proposed charging units shall be submitted to and approved prior to the installation of the EVCP units.