



Appeal Decision

Site visit made on 1 August 2023

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2023

Appeal Ref: APP/G5180/W/23/3314017

Land To The Rear Of 83-89 Yester Road, Walden Road, Chislehurst, Kent BR7 5DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr A Hannan against the decision of the London Borough of Bromley.
 - The application Ref DC/22/04289/PIP, dated 31 October 2022, was refused by notice dated 14 December 2022.
 - The development proposed is erection of a single residential dwelling.
-

Decision

1. The appeal is allowed and permission in principle is granted for one dwelling at Land To The Rear Of 83-89 Yester Road, Walden Road, Chislehurst, Kent BR7 5DH in accordance with the terms of the application, Ref DC/22/04289/PIP, dated 31 October 2022 and plan ref. 22102-0111 Rev PL2.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages. The first stage (permission in principle) establishes whether a site is suitable in principle. The second stage (technical details consent) is when detailed proposals are assessed. This appeal relates to the first stage.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent (TDC) application if permission in principle is granted.
4. The Council has confirmed that the reference in the reason for refusal to Policy D4 of the London Plan (2021) (LP) is a typing error. Instead, the Council rely on Policy D3 of the LP. The appellant has had an opportunity to comment on this Policy, and I have determined the appeal on this basis.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location and the amount of development.

Reasons

Location & Amount

6. The appeal site is an L-shaped parcel of wooded land, located to the rear of large residential properties with generously sized gardens on Yester Road and Sandy Ridge. The site boundaries are marked by wooden close boarded fencing, with a gate providing access from Walden Road. The appeal site forms part of a Tree Preservation Order (TPO) which covers a wider area of surrounding sites. The surrounding area has a suburban residential character.
7. The site's frontage would have a similar width to the site frontages of neighbouring properties on the opposite side of Walden Road. Whilst indicative drawings have been provided, the exact location and size of the dwelling within the site is not considered at this stage. The site's L-shape plot, which is significantly wider towards the rear, ensures that a scheme could be designed to fit within the site without appearing cramped and contrived.
8. A single dwelling would likely maintain the low density development of the surrounding area and therefore the site is sufficiently scaled to accommodate one dwelling. Whether the detailed design of the dwelling is excessive relative to the scale of the site and the context of its surroundings is to be determined at the subsequent TDC stage.
9. Policy 73 of the Bromley Local Plan (2019) (BLP) requires proposals for new development to take particular account of existing trees on the site which, in the interests of visual amenity, are considered desirable to be retained. The indicative plans show that the house would be largely shaded by existing trees and an arboricultural survey has not been submitted to illustrate whether the removal of any trees would be required.
10. The proposal, however, is for permission in principle. It is the subsequent TDC that has the effect of granting planning permission for the development. The PPG advises that, when granting permission in principle, local planning authorities can provide information on the decision notice about what details should be included at the technical details stage. This information may include where further impact assessment is needed by the applicant or where a particular scheme of mitigation may be required. Furthermore, the PPG makes it clear that planning conditions can be attached to a grant of TDC, and planning obligations can also be agreed.
11. The requirement for TDC for the proposal, before development could commence, would provide a mechanism for securing the necessary arboricultural survey and assessment and details of any trees for which removal may be sought. If these did not demonstrate that the site was, or could be made suitable for its new use, TDC could be refused, and there would be no planning permission for the proposal. In view of this safeguard, the lack of information at this initial stage of the process does not lead me to conclude that the proposal would be contrary to Policy 73 of the BLP.
12. For the reasons set out above, the appeal site is suitable for residential development having regard to its location and the amount of development. It would therefore be in accordance with Policies 37, 73 and 115 of the BLP and Policies D3, H2, G7, SI12 and SI13 of the LP, insofar as parts of these policies relate to matters relevant in the determination of the permission in principle. Together, and amongst other criteria, these policies require new development to be compatible with local character, take account of existing trees, whilst addressing flood risk and sustainable drainage.

Other Matters

Planning History

13. I have been provided with details of the historic proposals for residential development on the appeal site which were previously dismissed at appeal by Inspectors¹ in the 1990s. The site areas relating to those appear to differ to that of the current appeal scheme, indicating that the sites considered by previous Inspectors were not identical to the current site.
14. Furthermore, it is likely that the physical characteristics of the site and its surroundings will have also changed over the intervening period. For instance, the Inspector determining T/APP/G5180/A/93/230503/P3 notes that the site contained approximately 50 trees grouped around a pond. This is markedly different to the significantly fewer trees that I observed during my site visit.
15. More recently, two planning applications², both for single houses, submitted in 2007 were refused. I have not been provided with further details of these applications, such as the submitted drawings. However, the appellant indicates that the Tree Protection Plan submitted at the time identified 26 trees on the site, as opposed to the 50 referred to in the previous appeals.
16. I also note that an application for a four bedroom detached house was refused in 2017³ and was the subject of a subsequent appeal⁴. However, given the significant period of time that has passed, both between, and since these various decisions, I cannot be sure of the visual context within which the previous Inspectors reached their conclusions, or how this context is reflected in the appeal site and its surroundings as they stand today. Additionally, none of the previous Inspectors were considering a proposal in relation to the permission in principle process and would therefore have likely taken account of a range of additional factors and evidence, which cannot be considered as part of this appeal.
17. As a result, the circumstances within which these previous decisions related to planning applications were made is not wholly comparable to the circumstances of the current appeal before me. Consequently, whilst I have had regard to the findings of previous decisions in reaching my decision, I consider that there is justification, in this instance, for me reaching a different conclusion.

Flooding

18. The Council has provided a map which they indicate shows that an ordinary watercourse crosses the site and that there is a high risk of surface water flooding on part of the site. BLP Policy 115 and LP Policy SI 12 outline that development proposals should ensure that flood risk is minimised and mitigated, and that this should include, where possible, space for water, whilst aiming for development to be set back from the banks of watercourses.
19. I note that flood concerns have not featured within the previous planning applications and appeal decisions which have been referenced by the Council. The Council has not provided further information to explain the nature of the 'ordinary watercourse' which they indicate is present at the site, and I did not

¹ T/APP/G5180/A/93/230503/P3; T/APP/G5180/A/94/236740/P2

² 07/00361/FULL1; 07/03371/FULL1

³ 17/03123/OUT

⁴ APP/G5180/W/17/3172285

observe an obvious watercourse during my visit. However, the term refers to streams, rivers, ditches, drains and alike which do not form part of an identified main river. An area to the rear of the site also remains outside the area shown to be at risk of surface water flooding.

20. The TDC is the appropriate stage to address site drainage and any other potential mitigation measures which may be necessary to address the matter, whereby the layout of the dwelling could be sited so that it is outside of the area identified as being at risk of surface water flooding.

Highways

21. I note the concerns that there is a degree of risk in introducing a new crossover between mature trees and that there is limited information on which to assess whether satisfactory visibility splays can be achieved. However, specific details relating to the access, such as technical drawings, visibility splays and pedestrian sight lines, would be considered at the TDC stage. There is nothing before me to indicate definitively that a safe and suitable access could not be secured at the appeal site in principle.

Contamination

22. I understand that the application site was historically part of Camden Woods, including a small lake or pond which is likely to have been filled in and could comprise 'made ground'. The limited information provided with the appeal application is commensurate with the nature of the planning in principle stage process, which purely seeks to determine whether the location, land use and amount is acceptable in principle. The contamination issue is more appropriately determined as part of the TDC stage, and there can be no guarantee that just because the permission in principle has been granted, that the TDC will follow.

Interested Parties

23. Interested parties questioned whether it would be possible for the site to be managed as a community wildlife sanctuary, and commented on the current lack of maintenance of the site. These are not planning considerations, and the decision maker must determine the proposal before them rather than a theoretical alternative proposal.
24. Concerns have been raised by interested parties regarding a number of other matters. These include the effect on the living conditions of neighbouring occupiers, parking, loss of vegetation, pedestrian safety, the impact on wildlife and that existing invasive non-native species require removal and treatment. However, these are not matters which fall within the scope of consideration for the first stage of the permission in principle consent route. These are all matters which will need to be addressed as part of the technical details consent, the second stage of the process.

Conditions

25. The PPG advises that it is not possible for conditions to be attached to a grant of permission in principle and its terms may only include the site location, the type and amount of development.

Conclusion

26. For the reasons given above, having considered the development plan as a whole, along with all other material considerations, I conclude that the appeal should be allowed.

B Pattison

INSPECTOR