



Appeal Decision

Site visit made on 14 September 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2023

Appeal Ref: APP/G5180/W/23/3314752

Lyndhurst, Willow Grove, Chislehurst, BR7 5QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order).
 - The appeal is made by Better Properties against the decision of London Borough of Bromley.
 - The application Ref DC/22/02155/NDFLAT, dated 27 May 2022, was refused by notice dated 18 July 2022.
 - The development proposed is the construction of a single storey upward extension to create three self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order), permits development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats, together with, amongst other things, engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses.
3. As detailed within the Order, development under Class A is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval. The local planning authority may refuse the application where it considers that the proposal does not comply with the limitations or restrictions that are applicable to such permitted development.
4. The provisions of the Order require the local planning authority to assess the development proposed solely on the basis of a limited number of considerations. The Council refused to grant prior approval due to concerns in respect of transport and highway safety matters and the effect of the development upon the external appearance of the building. I therefore consider these to be the main issues in the appeal.
5. The Order sets out that regard should be had to the National Planning Policy Framework (the Framework), so far as relevant to the subject matter of the prior approval, as if the application were a planning application. Development

plan policies can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issues

6. The main issues are whether prior approval should be given, having regard to 1) the transport and highways impacts of the development, and 2) the resulting external appearance of the building.

Reasons

Transport and highways impacts

7. Where any development under Class A is proposed, development is permitted subject to the condition that, before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to, amongst other things, the transport and highways impacts of the development.
8. The proposed development would result in the creation of an additional 3 flats. The Council's concerns in relation to the transport and highways impacts of the proposed development relate to a lack of proposed parking, resulting in inappropriate and obstructive parking in Willow Vale and Willow Grove, and that there would be an intensification of use of the junction of Willow Grove and Willow Vale which would be detrimental to the free flow of traffic and road safety.
9. The existing building comprises 12 flats. There is a parking area to the rear which is for around 12 cars. There is also a garage block of 6 garages, although these are not included in the evidence for the purposes of identifying parking that is available for existing or future occupants.
10. In support of the appeal, the appellant has submitted a Transport Appeal Statement¹ and a Transport Technical Note². This includes a parking survey of Willow Vale and Willow Grove using the preferred Lambeth Methodology.
11. Using the established census car ownership analysis, the Transport Technical Note considers that the expected car ownership of the proposed development would be no greater than two cars. The note also highlights that over 50% of similar sized units in the local ward are car-free, suggesting that it is not uncommon for residents of such sized properties in the area to be car-free.
12. The stress surveys identified that at the times of highest levels of parking, two spaces were available on Willow Vale and one space was vacant within the site. There is greater capacity during the day, as would be expected within a residential area such as this, and I observed as much on my site visit where I was able to park safely and easily opposite the appeal site on Willow Vale.
13. The daytime results indicate that no vehicles were parked on Willow Grove, and I observed that this was also the case on my site visit, save for a removal vehicle which would be an infrequent occurrence. The daytime survey found that 5 vehicles were parked on Willow Vale and 4 vehicles were parked within

¹ Crosby Transport Planning - PC/P2186 Appeal Statement – 9 January 2023

² Crosby Transport Planning - P2186 TN2/PC – May 2022

the site. The time when overall parking stress levels are at their greatest is evidently overnight rather than during the daytime, as would be expected within a predominantly residential area.

14. On my site visit I observed slightly greater levels of on street parking on Willow Vale than those that were recorded for the daytime in the survey. Excluding my own vehicle there were 9 other vehicles parked on the street. There were also 4 vehicles parked within the car park at the appeal site, which based on the evidence suggests there was space for a further 8 vehicles. I also observed that of the 9 dwellinghouses on Willow Vale, all have access to off-street parking, with some properties having space for up to three vehicles, and most with space for at least two vehicles.
15. Even with the greater numbers of vehicles parked on street that I observed during my visit, these were not causing an obstruction or harm to highway safety. I do, however, acknowledge that this situation was a snapshot in time and may be different at other times.
16. Therefore, based on the evidence before me, in relation to parking, using the parking surveys and my own observations, there would be capacity for parking of vehicles associated with the proposed development that would not lead to an unacceptable impact on highway safety or have severe impacts on the road network.
17. In terms of the increase in use of the junction between Willow Vale and Willow Grove, the appellant installed an Automated Traffic Counter to monitor the number of vehicles using the junction. This was across a 7-day period. The results show that, on average, there were 90 vehicles in a northbound direction and 94 in a southbound direction. Using the appellant's suggested car-ownership for the proposed development of two vehicles, I agreed that the uplift in use would be negligible.
18. The CrashMap data also does not suggest that the existing junction has a history of collisions. I note that representation includes CrashMap data showing accidents at other locations on Willow Grove, however these are some distance from the junction and do not lead to the conclusion that it is unsafe. Whilst I acknowledge that my experience on my site visit was a snapshot in time, I found that I was able to safely access and egress from Willow Vale onto Willow Grove in my vehicle. Based on the submitted evidence, and my own experience, I therefore do not consider that the very low increased use of the junction that would occur as a result of the development would result in an unacceptable impact on highway safety or have severe impacts on the road network.
19. I note reference is made to the introduction of a Controlled Parking Zone (CPZ) in central Chislehurst and it is suggested that this would result in further parking on Willow Vale and thus less parking would be available on street than has been claimed by the appellant. There is however no substantive evidence to demonstrate that this is the case which would contradict the appellant's evidence.
20. I note that a number of representations refer to the current highways conditions. I have also been presented with evidence showing congestion on Willow Grove. Whilst I do not doubt that such incidents may occur, the evidence does not support the suggestion that the traffic generated from three

additional one-bedroom flats would have an unacceptable impact on highway safety. At the time of my afternoon visit the traffic levels were low to moderate and traffic was flowing relatively freely. Again, however, I acknowledge that this may not always be the case.

21. Whilst it has not been demonstrated that the proposed development would trigger the requirement for parking restrictions on either Willow Grove or Willow Vale, there would be, as there currently is, the possibility for measures to be installed should it be deemed necessary in order to mitigate any highway safety concerns due to the parking of vehicles.
22. Based on the submitted evidence, and for the reasons given above, I therefore conclude that the proposed development would not result in unacceptable transport or highways impacts. It would comply with the requirement of the Framework that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. It would also comply with Policy 32 of the Bromley Local Plan (2019) which outlines that the Council will consider the potential impact of any development on road safety and will ensure that it is not significantly adversely affected.
23. The development would not provide the level of parking as set out in Policy 30 of the Bromley Local Plan (2019). However, there is no statutory requirement to determine applications for prior approval in accordance with the development plan. I have had regard to the policy insofar as it is a material consideration, and I have found the proposed development to be acceptable in highway safety terms despite not providing the parking as set out in the Policy. I also note that the parking standards as set out in Policy T6.1 of the more recent London Plan (2021) are maximum.

External appearance

24. Where any development under Class A is proposed, development is permitted subject to the condition that, before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to, amongst other things, the external appearance of the building.
25. The appeal property is a three storey, flat roofed building on the corner junction of Willow Grove and Willow Vale. It is located in a predominantly residential area where there is a variation in property type, design and size. The property is set amongst some large trees which is a common feature of the area, giving it a pleasant landscape setting.
26. The site is also adjacent to another three-storey block of residential properties called Pinehurst. The surrounding area also contains a number of fine three to four storey Victorian properties.
27. On the opposite corner is Imperial Court which is a residential block of very similar design, height, scale and mass, to the appeal property, although it is not identical. The similarity of these buildings, although not symmetrical, forms a pleasant gateway to Willow Vale that is a positive feature. These two buildings are visually interlinked and experienced together from long range views along Willow Grove and when accessing Willow Vale and from within it.
28. Due to its resulting design and scale the appeal building would significantly and harmfully disrupt from the harmonised and positive aspects identified above. Its increase in height and scale would notably and harmfully fail to assimilate

the resulting building to its surroundings. Due to its size, shape and elevated siting, the proposed extension would add a considerable mass to the building and would appear as a bulky and dominant addition. This would be in stark contrast to the prevalence of three storey residential blocks in the immediate surroundings. The design of the extension would also depart from the ordered fenestration of the building.

29. I acknowledge that it would be similar in overall height to the four storey properties on Willow Grove, however these properties have sloping roofs that form series of ridges as opposed to being solid, bulky additions as is the case with the proposed development. This argument would, in any event, be more applicable to the adjacent Imperial Court which sits closest to these properties, whereas the appeal property is evidently separated from these properties by Imperial Court and Willow Vale which forms a clear visual break.
30. The existing building incorporates a range of materials, with brick, hanging tiles and rendered sections between the windows. The proposed development would introduce a further material in the form of zinc cladding to the building which aside from its colour would not successfully integrate with the existing palette of materials. Similarly, the proposed full height windows would be at odds with the style, design and position of the windows used in the existing building. When combined with the vertical zinc cladding, the extension would provide a vertical emphasis to a building with an otherwise horizontal emphasis and would appear discordant. I do not consider that the suggestion of using a planning condition to agree external materials would overcome the harm I have identified.
31. I acknowledge that there are a number of mature trees on the site boundary that would screen some elements of the proposed development. This would, however, only be from certain viewpoints and I cannot be certain that they would remain in place for the lifetime of the development and I note from the evidence that there has been previous removal of trees surrounding the site.
32. Although the extension would be set back 1m from the edges of the building, which would alleviate some of the dominance and allow it to be seen as a separate entity, I do not consider that in this instance it would be sufficient to address the harm I have identified above.
33. The appeal property sits directly opposite land and properties that are within Chislehurst Conservation Area (CCA). Its setting at this point is characterised as forming an area of residential properties of various designs and sizes in landscaped settings.
34. Having regard to the overall scale, design and siting of the development, the harm to the conservation area relates to a small area and would be minor and less than substantial in terms of the language in the Framework. It would nevertheless not preserve or enhance its setting.
35. The Courts have held that even minor harm constitutes harm. The harm identified therefore weighs against the appeal on the matter of the external appearance of the building. There are no public benefits put forward to outweigh the harm, with the provision of dwellings having been taken into account by virtue of planning permission having been granted by the Order.

36. The appellant suggests that the extension would not be overly dominant when viewing the building in isolation. Whether the resulting external appearance of a building is acceptable is inherently linked to how it would be seen in relation to neighbouring buildings and the wider street-scene or landscape, as it may be. Appearance is not, therefore, a matter to be assessed in isolation, particularly in this case where the appeal building is closely related to other properties of a similar scale. I therefore consider that it is reasonable, to take account of the effect of the proposed external appearance of the building on the wider character and appearance of the area.
37. I therefore find that the proposed development would cause significant harm to the external appearance of the building. The proposal would be contrary to the Framework in respect of the matter of external appearance and the requirement for good design.
38. In terms of their relevance as a material consideration as they relate to the prior approval matters, the proposed development would be contrary to Policies 37 and 42 of the Bromley Local Plan (2019). These policies require, amongst other things, that developments be of a high standard of design, complement the scale of adjacent buildings, positively contribute to the street-scene and that developments adjacent to a conservation area will be expected to preserve or enhance its setting and not detract from views into or out of the area.

Conclusion

39. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR