



Appeal Decision

Site visit made on 24 October 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2023

Appeal Ref: APP/G5180/W/23/3320881

141 Hayes Lane, Hayes, Bromley BR2 9EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Monument Developments Limited against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/02735/FULL1, dated 7 July 2022, was refused by notice dated 19 January 2023.
 - The proposed development is the demolition of the existing property and redevelopment of land by the erection of a 2 storey building comprising of nine flats, together with laying out of associated parking and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing property and redevelopment of land by the erection of a 2 storey building comprising of nine flats, together with laying out of associated parking and amenity space at 141 Hayes Lane, Hayes, Bromley BR2 9EJ in accordance with the terms of the application, Ref DC/22/02735/FULL1, dated 7 July 2022, subject to the attached schedule of conditions.

Main Issues

2. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area, with particular regard to its siting and scale; and,
 - the living conditions of the occupiers of No. 139 Hayes Lane, with particular regard to their outlook and light.

Reasons

Character and appearance

3. The appeal site contains a detached dwelling with a long rear garden, which is wider than some of the properties nearby. It is also situated forward of other nearby properties on this side of Hayes Lane, and the gentle bend in the road away from the front of the appeal site, makes its forward siting even more prominent. The area comprises a mixture of detached, semi-detached, and apartment buildings at No's 143 and 145 Hayes Lane, all having varying setbacks from the road, but facing onto it.
4. No. 141 appears as an anomaly in terms of its forward siting, particularly given the bend in the road. Although, the width of the appeal site's frontage is narrower than that of No's 143 and 145, its width increases towards the rear of the site, due to one of its diagonal side boundaries. Moreover, the width of the

appeal site where the proposed building is to be sited is not dissimilar to the width of No's 143 and 145. Furthermore, the retained gaps to either side of the proposed building would ensure the characterful spaces between buildings in this area are satisfactorily maintained and the proposal would not appear cramped or an overdevelopment of the appeal site.

5. The proposed siting of the building in what is the rear garden of the appeal property, would nevertheless relate well to the position of its adjoining buildings; No. 139 would be sited in front of it and No. 143 would be sited further back. Given the mixed character of buildings and varying setbacks already in this immediate area, the siting of the proposed building would not be prominent or inconsistent with the pattern of existing buildings in this immediate area.
6. The submitted plans show that the height of the proposed building would be no higher than No.139, and that it would be a comparable width and height to No 143. It is acknowledged that the proposal would be a much bulkier building than the building it replaces, and it would be deeper than No. 143. However, its generous setback from the road frontage, the bend in the road, and its interrelationship with neighbouring properties would ensure that it would not be particularly noticeable or harmful when viewed in either direction along Hayes Lane.
7. It is noted that car parking is proposed to the front of the building which would include hard surfacing, however, this would be adequately softened by the planting that is proposed along both side boundaries and part of the front side, to ensure it would not be dominant or harmful to the area.
8. The overall design and appearance of the proposed building, including its front fenestration, would assimilate well against the design and appearance of those nearby properties, particularly the new apartment buildings. It is noteworthy that the Council also concluded similarly in this respect.
9. To conclude the siting and scale of the proposed development would relate well to the character and appearance of the area and comply with Policies 3, 4 and 37 of the Local Development Framework, Local Plan, London Borough of Bromley, Planning Division, dated January 2019 (BLP) that amongst other things require development to be of a high standard of design, complement the scale and form of adjacent buildings, and for the development of garden areas not to unacceptably impact upon the character, appearance and context of the area. The proposal also complies with paragraph 130 of the National Planning Policy Framework (the Framework) that requires new development to add to the overall quality of an area and be sympathetic to local character, including the surrounding built environment.
10. The proposal is consistent with the main objectives of Bromley's adopted Supplementary Planning Guidance No. 1; General Design Principles and No. 2, Residential Design Guidance, which collectively expect new development to respect the character and appearance of the area. In addition, the proposal also complies with Section C1 of the National Design Guide, dated 2019, as it would positively respond to the layout, scale and form of the local area.

Living conditions

11. I saw on my site inspection that No. 139, which has a small space between it and its side boundary with the appeal site, has glazed doors on its rear elevation opening onto a patio area nearest to its boundary with No. 141. No. 139 also has a conservatory on the opposite side of its rear elevation, and its rear garden levels rise from its patio level towards its rear boundary.
12. On my site inspection I saw that there is substantial planting along the boundary between No's 139 and 141, mostly in the appellant's ownership and some of the planting is very tall. I observed that it already shaded the patio area and some of the rear garden of No. 139 during my visit. Although, there is a small gap in the planting above the boundary fence, near to the rear elevation of No. 139, I saw on my site inspection that it only allowed some light onto a small part of No 139's grassed rear garden.
13. It is also acknowledged that the proposed building is said to extend much further back than No. 139. However, the submitted section drawings show that it would be located on a lower level than No. 139 itself, including its patio level, which will also lessen the effect of the proposal upon the occupiers of No. 139. Whilst most of the planting on the appellant's side would be removed and the proposed building would be visible from within the rear garden of No. 139, it would be located approximately 4 metres away from the party boundary. In view of this separation distance between the proposal and No. 139, the mass and bulk of the proposal would not be overbearing or harmful to the occupiers of No. 139, from within either their property or their patio and garden area.
14. The submitted Daylight, Sunlight, and Overshadowing Assessment (DSOA) prepared by EEABS concluded that there would be a negligible effect upon the windows of No. 139 from the proposal. Whilst it is claimed that at certain times of the day the patio and rear garden would be overshadowed by the proposed building, which have not been assessed within the DSOA, there is already overshadowing of these areas from the planting, and this is an important consideration. From my site observations, the orientation of the respective buildings, their separation distances, and the existing landscaping on the party boundary, the proposal would not unacceptably reduce light or overshadow the patio or rear garden of No. 139.
15. I therefore conclude that the proposal would safeguard the living conditions of the occupiers of No. 139, with particular regard to light and outlook and comply with Policy 37 of the BLP, which amongst other things, requires the relationship between new development and existing buildings to allow adequate day light and sun light to penetrate, and that the amenity of occupiers, and future occupiers are not harmed by overshadowing. In addition, the proposal complies with paragraph 130 of the Framework, that amongst other things requires development to provide a high standard of amenity for existing and future users.

Other Matters

16. Objectors have raised highway safety issues relating to; parking on the local highway; difficulties for emergency services vehicles to move along Hayes Lane; existing congestion along Hayes Lane, particularly with Bromley FC home matches; a recent accident said to have involved a bus; and a suggestion that yellow lines be used to prevent parking. The development relates to 9 flats all

being served with their own off -street parking space and 2 no. secure cycle spaces each. Other than repairs to the pavement, the appellant's Road Safety audit did not identify any harmful effects from the proposed development upon highway safety, and nor did the Council raise objections to the proposal in highway safety terms. Conditions below have been imposed to ensure the on-site parking and turning areas, and visibility splays are provided in the interests of highway safety. There is no evidence that the proposal would be harmful to highway safety or that any measures other than those the subject of conditions are required to mitigate any highway safety effects, and I note that the Council has not raised any such objections.

17. Comments have been made about the effect of construction works upon the living conditions of neighbouring occupiers. These are noted, and a condition requiring a Construction Method Statement is imposed to ensure amongst other things, pedestrian safety, construction noise and dust and dirt, are managed to protect the living conditions of nearby occupiers.
18. Although it has been said that the effect of the proposal upon local services, such as health providers and educational settings would be unacceptable. There is no precise information provided to show that the proposal would have an unacceptable effect upon any local services, nor has the Council raised this as an objection or sought mitigation in this respect, and I see no reason to disagree.
19. It has been stated that the proposed development would lead to the devaluation of nearby properties and cause risks to their foundations and increase the pressure on the local water mains. However, I have not been presented with any evidence to quantify any of these points. As such, and on the basis of the information before me, I cannot agree that there would be such harmful effects arising from the proposal.
20. In respect to the trees at the appeal site, the appellants tree report did not identify any of the trees to be felled as worthy of retention. Some of the trees towards the rear of the site are to be retained and further planting is also proposed, both aspects are to be conditioned. It is also noteworthy that the Council did not object to the loss of any of the trees at the appeal site.
21. Objections have been made in respect of the additional pollution, traffic noise and effects upon air quality from the proposal. I have not been made aware that the appeal site is within an air quality management area or suffers from low air quality, or any such mitigation is required. The additional 9 flats are unlikely to cause any unacceptable noise, disturbance or pollution to the nearby occupiers. It is also noted that the Council did not raise objections in this respect, and I have no evidence to disagree.
22. Concerns have been raised that the proposal could increase surface water run-off from the increased amount of hard surfaced areas. A condition has been imposed requiring the submission of detailed surface water drainage details to ensure that the whole site can be effectively drained and there is no unacceptable surface water run-off from the proposal.

Conditions

23. The planning conditions imposed in the schedule below have been thoroughly assessed against the tests in paragraph 56 of the Framework, to ensure they

are necessary, reasonable, related to planning and the development permitted, enforceable, and precise. The appellant has agreed in writing to the pre-commencement conditions.

24. I have imposed a standard implementation condition, along with a condition listing the approved plans to provide certainty over what has been approved.
25. To ensure surface water is drained effectively from the site, including ensuring it is not discharged into the highway, a condition requiring surface water drainage details is necessary.
26. To protect the living conditions of neighbouring occupiers, conditions are necessary in respect of boundary treatments and a Construction Method Statement. For the same reasons a condition regarding refuse storage facilities is imposed based on those details shown on the submitted plans. It was not necessary to condition their appearance, as the landscaping condition, mentioned below, will allow the Council the opportunity to agree planting around them.
27. The Council suggested a condition regarding road safety audits to comply with Policy 32 of the BLP. However, that policy did not specifically require this, moreover the only comments in the submitted Stage 1 report relates to existing maintenance issues on the pavement surface in front of the appeal site, which appear to be existing maintenance issues for the Council, and it is not necessary to condition these works as they do not relate to the proposed development. Nevertheless, conditions have been imposed requiring the provision of parking and turning areas, and vehicular and pedestrian visibility splays in accordance with the submitted details, along with crossover details, prior to the occupation of the development to protect highway safety. Details of secure cycle parking facilities are shown on the plans, consequently I have conditioned that they are provided and brought into use before occupation of the development to promote sustainable travel.
28. To ensure the development does not harm the character and appearance of the area, conditions are imposed regarding the external appearance of the development, tree protection measures, and details of all new hard and soft landscaping. In addition, the boundary condition is also required for the same reasons, particularly for the front and side boundaries, visible from Hayes Lane.
29. It was not reasonable to condition details of slab levels as this information has already been provided on the submitted section drawings. Neither did I find it necessary to condition wheel washing facilities as this relates to mud on the highway, which is governed by highway legislation, and breaches of such a condition could not necessarily be enforced. Nor was a condition requiring obscure glazing to the side windows referred to in the Council's report necessary, as the windows are either at ground floor level which can be mitigated through suitable boundary treatment or high-level roof lights that due to their position and angle would not allow overlooking of neighbouring properties.
30. As no conflict with Policy D5 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021, has been identified, and given that the approved plans show level access to accommodation on the ground floor, it is not necessary to require a condition regarding disabled access details in this case.

31. Although mentioned in the Council's report, I have not been provided with a suggested condition regarding ecology or site clearance restrictions. Based on the very limited evidence before me, I am not convinced of the need to impose such a condition.

Conclusion

32. For the reasons outlined above the appeal is allowed.

A Hunter

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: drawing no's 2214.2.5; 2214.2.6; 2214.2.2; 2214.2.1; 2214.2.4; 2214.2.3; 2214.2; 2214.1.0; 2214.2.7; 226937_SK01; 226937_AT_A01; 2214_02-00_RevA; and Plan 4 prepared by Valley Trees.
- 3) All the trees shown on Plan 4 (prepared by Valley Trees) shall be retained and any trees whose canopies overhang the site shall be protected by strong fencing, the details of which shall have been submitted to and approved in writing by the local planning authority prior to the commencement of the development. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 4) No works or development shall commence until a full specification of all hard and soft landscaping of the site together with a timetable for their implementation has been submitted to and approved in writing by the local planning authority. The specification of the soft landscaping shall include the quantity, size, species, and positions or density of all trees to be planted, how they will be planted and protected and the proposed time of planting. The development shall be undertaken in accordance with the approved specification of both hard and soft landscaping details. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding;
 - measures to control the emission of dust and dirt during construction; and,
 - delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) The development hereby permitted shall not be occupied until surface water drainage works shall have been fully 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.

The development shall be undertaken in accordance with the agreed details, timetable and management and maintenance details.

- 7) Prior to the first occupation of the development hereby approved, precise details of the boundary treatment to all sides of the appeal site together with a timetable for their implementation shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in accordance with the agreed timetable.
- 8) Prior to the first occupation of the development hereby approved, the new vehicular crossover shall have been fully implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 9) Prior to the first occupation of the development hereby approved the vehicular and pedestrian visibility splays shown on drawing no. 226937_SK01 shall be formed and there shall be no obstruction above 1 metre in height within these splays, except for any pavement trees that shall have been agreed in writing by the Local Planning Authority. Thereafter the visibility splays shall be permanently retained in accordance with the approved details.
- 10) The external materials and finishes to be used on the development hereby approved shall only be those specified on drawing no. 2214_02-05.
- 11) The cycle parking areas shown on drawing no. 2214_02-00 shall be fully installed and available for use prior to the first occupation of the development hereby approved. Thereafter the cycle parking areas shall be retained in perpetuity for this use and not used for any other purpose.
- 12) The refuse storage facilities shown on drawing no. 2214_02-00 shall be installed and available for use prior to the first occupation of the development hereby approved. Thereafter these refuse storage facilities shall be retained in perpetuity for their intended purpose.
- 13) The parking and turning areas shown on drawing no. 226937_AT_A01 shall be fully formed and available for use prior to the first occupation of the development hereby approved, and shall thereafter be retained in perpetuity for that use and not used for any other purpose.