
Appeal Decision

Site visit made on 13 February 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2024

Appeal Ref: APP/G5180/W/23/3328158

Orchard Lodge, 1B Copers Cope Road, Beckenham, Bromley BR3 1NB

- 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 Mr Martin Lewis against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/23/01788/FULL1, dated 26 April 2023, was refused by notice dated 29 June 2023.
 - The development proposed is described on the application form as 'demolition of existing property; erection of 8no. apartments with associated works'.
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Decision

1. The appeal is allowed, and planning permission is granted for demolition of existing property; erection of 8no. apartments with associated works at Orchard Lodge, 1B Copers Cope Road, Beckenham, Bromley BR3 1NB in accordance with the terms of the application, Ref DC/23/01788/FULL1, dated 26 April 2023, and subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been significantly amended. The main parties had the opportunity to comment on changes to the Framework, and I have taken into account the responses received in the determination of the appeal.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area; and upon the living conditions of neighbouring occupiers, with regard to outlook.

Reasons

Character and appearance

4. The appeal site relates to a two storey detached dwelling which is situated in a row of two storey properties on the southern side of Copers Cope Road. The property is located on a good-sized plot and is set back from the road behind a fence and hedge with a driveway and garden to the front and a further area of garden to the rear. The property is double fronted with a two storey gable feature to the front elevation and a pitched roof above. It is bounded to the west by 1a Copers Cope Road, which is a vehicle repair garage, and by a residential property, 1d Copers Cope Road, to the east. A large supermarket car park is situated on lower ground to the rear of the site.

5. The surrounding area is predominantly residential in character, albeit there are also some commercial uses close by, including the adjacent vehicle repair garage and the supermarket. Properties in the area vary considerably in terms of size and style, ranging from two storey detached and terraced dwellings to four storey blocks of flats. Buildings are generally set within large plots, though on this side of the road plot depths become notably shallower to the east of the site. The mature trees within the grass verges lining both sides of the road and within the gardens of properties provide a sense of greenery. Consequently, there is a pleasant spacious and verdant character and appearance which contributes positively to the area.
6. The proposal would replace the existing detached house with a four storey block of eight apartments. The front building line of the proposal would align with the adjacent garage but would be set forward of No 1d. The building line of the proposal, its overall width and separation from the side boundaries would be similar to the scheme previously allowed on appeal¹ and would be acceptable given that there is not a uniform building line along this side of Copers Cope Road. The proposal would occupy a similar footprint and quantum of development to the previous appeal scheme and it would retain reasonable gaps to the site boundaries. The building would be set back into the site and thereby maintain the spacious character of the area. Therefore, I do not consider that it would represent overdevelopment of the site.
7. The roof line of the existing property is slightly higher than No 1a and is in line with No 1d. The proposed four storey building would be notably taller than the immediate neighbouring properties, albeit this would be mitigated to some extent by the roof design of the proposal which slopes away from the site boundaries. With the proposed additional storey, the scale, bulk and massing of the appeal scheme would be greater than that of the previous appeal scheme. Consequently, there would be some change to the street scene because of the clear difference in height between the proposed building and those on either side. Landscaping within the site and the mature trees lining the road would filter views of the proposal to some extent. Nevertheless, the scale of the proposal is such that it would be apparent in views along Copers Cope Road and from areas beyond the southern boundary of the site, including the supermarket car park and Beckenham Junction. As a result, I consider that there would be minor harm to the character and appearance of the area.
8. That said, the scale, massing and height of the proposal would be comparable to other four storey buildings in the locality, including the flats on the northern side of the road opposite the site, and the four storey building to the west adjacent to two storey houses on Bearsted Terrace. The height of the proposal would not be dissimilar to the approved apartment block a short distance to the east at land between 1 and 1c Copers Cope Road. Slightly further to the east, there is a part seven storey, part three storey development on the southern side of Copers Cope Road at the junction Southend Road. These developments demonstrate that differing roof heights of buildings are a feature of the area and can be successfully integrated into the street scene.
9. Although car parking, servicing and waste storage would be to the front of the site the impact of these could be softened with appropriate landscaping. The Council comments that the use of close boarded fencing is unacceptable,

¹ Appeal Ref. APP/G5180/W/21/3280764

however the submitted plans indicate that the boundary treatment to the site frontage would primarily consist of metal ball topped railings which would not be inappropriate in this location.

10. The proposed building would include a crown roof which would be at variance with the roof designs of the immediate neighbouring properties. However, this would not be readily visible from street level and there are a range of roof types in the wider area, including crown roofs, such that the roof form of the development would not be inappropriate.
11. Concerns have been raised by the Council in relation to the use of render and timber cladding to the building. However, these materials are found elsewhere in the surrounding area and the existing property is render finished. The combination of brick, render and cladding would break up the massing of the building and the precise details can be agreed by condition.
12. Bearing in mind the factors I have outlined above, I conclude that the proposal would result in some limited harm to the character and appearance of the area. In this regard, it would be contrary to Policies 1, 4, 8 and 37 of the Bromley Local Plan (2019) (BLP) and Policies D3, D6 and H2 of the London Plan (2021). Amongst other things, these policies require new housing to be of a high standard of design and layout which respects local character, and makes the best use of land by following a design-led approach on housing schemes.

Living conditions

13. The neighbouring property to the east, No 1d, is a two storey detached dwelling with a single storey extension to the western side adjacent to the site. As the neighbouring dwelling is sited close to the rear boundary, the main external amenity area is to the front of the property.
14. It is likely that the outlook from the windows to the front elevation of the extension would be affected by the proximity of the proposal and its scale and height. For the same reason, there would be some loss of light to the front windows of the neighbour's extension. However, the extension is also served by rear windows such that the overall effect would not be significantly harmful.
15. The orientation of the neighbouring property is such that the remainder of the windows to the front elevation would not directly face the proposed building. These windows would only have oblique views towards the development and any effect on their outlook would be minimal. The rear windows face away from the site and would not be adversely affected.
16. Due to its height and forward projection beyond No 1d, it is likely that the proposal would have an overbearing presence when viewed from the neighbour's front patio, but it would only affect that part of the front amenity area adjacent to the site and the remainder would continue to have a more open aspect. Therefore, the overall effect would not be significantly harmful.
17. The number of windows to the eastern flank elevation of the building have been minimised and those that are proposed could be fitted with obscure glazing. The proposed balconies would not directly overlook No 1a and the eastern sides of the balconies could be fitted with obscure glazed screens. Therefore, the proposal would not result in undue loss of privacy to the neighbouring occupiers.

18. The use of the balconies would be unlikely to cause significant noise disturbance to the neighbouring property given the separation distances and orientation between these properties. Therefore, I share the Council's view that the proposal would not result in an unacceptable impact on the neighbouring occupiers in respect of noise and disturbance. There are no other neighbouring dwellings within close proximity of the site.
19. For the above reasons, I conclude that the proposed development would not be significantly harmful to the living conditions of the neighbouring occupiers, with particular regard to outlook. Thus, it would not be contrary to Policies 4, 8 and 37 of the BLP or Policies D3, D6 and H2 of the London Plan, which require well-designed housing which respect the amenity of occupiers of neighbouring buildings, ensuring they are not harmed by an overbearing impact, noise or disturbance, inadequate natural lighting, loss of privacy or by overshadowing.

Other Matters

20. Comments have been made by interested parties in relation to other matters, including the effect on parking provision in the area. These do not form part of the Council's reasons for refusal. There is no substantive evidence before me to suggest that the proposal would exacerbate parking stress in the area. I share the main parties' view that there is no objection to the principle of the redevelopment of the site.

Planning Balance

21. Due to the minor harm to the character and appearance of the area, the proposal would result in some conflict with Policies 1, 4, 8 and 37 of the BLP and Policies D3, D6 and H2 of the London Plan. Insofar as it is relevant to the appeal proposal, these policies are consistent with the Framework which identifies achieving well-designed places as a key aspect of sustainable development and which includes requirements seeking development that is sympathetic to local character. The harm to the character and appearance of the area and the conflict with these policies carries moderate weight.
22. However, the Council cannot demonstrate a five year housing land. It has a 3.38 years supply which represents a significant shortfall in the supply of deliverable housing land. I attach considerable weight to the lack of housing supply. The presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework is therefore engaged. This provides that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
23. In terms of the Framework's three overarching objectives, there would be economic, social and environmental benefits to the proposed development. The proposal would contribute to the local economy as well as creating employment opportunities during the construction phase of development. The proposal would result in the effective re-use of a previously developed site in an accessible location. Given the scale of the development, I attach moderate weight to these benefits. The scheme would also provide a net increase of seven new residential units. Given the Council's lack of a five year housing land supply, I attribute significant weight to this benefit.

24. On this basis, I find that the moderate adverse impacts of the development would not significantly and demonstrably outweigh the benefits. The development therefore benefits from the presumption in favour of sustainable development set out in the Framework. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The presumption in favour of sustainable development is a significant material consideration which justifies a decision other than in accordance with the development plan in this case.

Conditions

25. I have had regard to the conditions suggested by the Council. In imposing conditions, I have had regard to the relevant tests in the Framework, Planning Practice Guidance and of statute. In that context I have modified the wording of some of the conditions proposed for consistency and clarity.
26. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans as this provides certainty.
27. To protect the living conditions of neighbouring residents and safeguard highway safety, a pre-commencement condition is necessary to agree the details of a Construction and Environmental Management Plan. Also to protect the neighbours' living conditions, I have attached conditions relating to the eastern side facing windows and balconies of the development and the use of obscure glazing. To safeguard the living conditions of future occupiers of the development, a condition is required to secure the recommendations of the Acoustic report.
28. To protect the character and appearance of the area, conditions are necessary to approve external materials, landscaping and tree protection measures.
29. A condition to secure the implementation of a surface water drainage scheme is required to ensure satisfactory drainage of the site. I have also attached a condition requiring implementation of designing out crime measures in the interests of security.
30. Conditions are necessary in relation to the provision of the car parking spaces on site and to prevent future occupiers from obtaining parking permits within controlled parking zones in the interests of highway safety. In the interests of local air quality, conditions requiring provision of electric vehicle charging points and gas boilers within the development are necessary.
31. To ensure adequate cycle parking and promote sustainable transport, I have imposed a condition requiring details of bicycle parking provision. A condition is needed to secure details of refuse storage arrangements in order to ensure satisfactory provision in the interests of future occupiers of the development.

Conclusion

32. For the reasons given above, I conclude that the appeal should be allowed subject to conditions.

M Ollerenshaw

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 approved plans: 100 Rev 008 Existing Site Plan and Topographic Survey, Existing Measured Survey, 101 Rev 008 Location Plan, Existing and Proposed Street Elevation, 102 Rev 008 Proposed Floor Plans, Elevations, Section and 3D View, 102 Rev 008 Proposed GF and 1F Plan, Cycle and Refuse Store Elevations, 104 Rev 008 Proposed 2F, 3F, Roof Plan, and 105 Rev 008 Proposed Elevations, Section and Perspective Views.

Before development commences

- 3) Prior to the commencement of the development hereby approved (including demolition), a Construction and Environmental Management Plan shall be 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) Measures 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 the construction period;
 - (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.
 - (e) Hours of operation;
 - (f) Other site-specific Highways and Environmental Protection issues as requested on a case-by-case basis.

The development shall be undertaken in full accordance with the details approved under Parts (a)–(f) above.
- 4) Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection

plan (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority;

(i) Specific issues to be dealt with in the TPP and AMS:

a) Location and installation of services/utilities/drainage; b) Methods of demolition within the root protection area (RPA as defined in BS5837:2012) of the retained trees; c) Details of construction within the RPA or that may impact on the retained trees; d) A full specification for the installation of boundary treatment works; e) A full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification; Details shall include relevant sections through them; f) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses; g) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing; h) A specification for scaffolding and ground protection within tree protection zones; i) Tree protection during construction indicated on a TPP and construction activities clearly identified as prohibited in this area; j) Details of site access, temporary parking, on-site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires; k) Boundary treatments within the RPA. l) Methodology and detailed assessment of root pruning; m) Arboricultural supervision and inspection by a suitably qualified tree specialist; n) Reporting of inspection and supervision; o) Methods to improve the rooting environment for retained and proposed trees and landscaping; p) Veteran and ancient tree protection and management;

(ii) The development thereafter shall be implemented in strict accordance with the approved details.

Before work above ground

- 5) Prior to the commencement of above ground works, details and/or samples of the materials to be used for the external surfaces of the building which shall include roof cladding, wall facing materials and cladding, window glass, door and window frames, decorative features, rainwater goods and paving shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) (i) Prior to the commencement of above ground works, details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the local planning authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:
 1. A scaled plan showing all existing vegetation to be retained and trees and plants to be planted which shall include use of a minimum of 30% native plant species of home grown stock (where possible) and no invasive species.
 2. Proposed hardstanding and boundary treatment.

3. A schedule detailing sizes and numbers of all proposed trees/plants.
 4. Sufficient specification to endure successful establishment and survival of new planting.
- (ii) There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the local planning authority.
- (iii) Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the local planning authority, replacement planting shall be in accordance with the approved details.
- 7) Prior to the commencement of above ground works, details of a drainage system for surface water drainage, to prevent the discharge of surface water from private land on to the highway, shall be submitted to and approved in writing by the local planning authority. Before any part of the development hereby permitted is first occupied, the drainage system shall be completed in accordance with the approved details and shall be retained permanently thereafter.
 - 8) The development hereby permitted shall incorporate measures to minimise the risk of crime and to meet the specific needs of the application site and development. No above ground construction shall take place until details of such measures have been submitted to and approved in writing by the local planning authority. The approved measures shall be implemented before the development is occupied and the security measures to be implemented in compliance with this condition shall achieve the Secured by Design accreditation awarded by the Metropolitan Police.
 - 9) (a) Details of a scheme of noise mitigation measures in full compliance with all recommendations of the submitted acoustic report (prepared by Able Acoustics, report number: P1392 dated 18 September 2020) shall be submitted to and approved in writing by the local planning authority prior to commencement of the above ground works.

(b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.

Before occupation of other stage conditions

- 10) No dwelling shall be occupied until space has been laid out within the site in accordance with Drawing No. 102 Rev 008 for 3 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear; the spaces shall thereafter be kept available at all times for the parking of residents' cars.
- 11) Before the development hereby permitted is occupied arrangements shall be agreed in writing with the local planning authority and be put in place to ensure that, with the exception of disabled persons, no resident (including future residents) of the development shall obtain a resident's parking permit within any

controlled parking zone which may be in force in the vicinity of the site at any time.

- 12) Prior to first occupation of the dwellings, details of the location of active electric vehicle charging points and the proposed charging units shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and retained thereafter.
- 13) No dwelling shall be occupied until space has been laid out within the site in accordance with Drawing No. 102 Rev 008 for the storage of refuse and recycling materials; these spaces shall thereafter be kept available for their specified purposes.
- 14) Notwithstanding the details shown on Drawing No. 102 Rev 008, no dwelling shall be occupied until a plan has been submitted to and approved in writing by the local planning authority showing a scheme of the parking of bicycles within the site. The scheme shall be implemented in accordance with the approved details and these spaces shall thereafter be kept available for their specified purposes.
- 15) The building hereby permitted shall not be occupied until the windows in the eastern flank wall have been fitted with obscure glazing for any part less than 1.75 metres above the floor of the room in which they are installed and no part of those windows that is less than 1.75 metres above the floor of the room in which they are installed shall be capable of being opened. Details of the type of obscure glazing and opening arrangement shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscure glazing and fixed panes shall be retained thereafter.
- 16) The building hereby permitted shall not be occupied until obscure glazed screens a minimum of 1.8 metres above finished floor level shall have been provided on the eastern side of the balconies and the screens shall be retained as such thereafter.
- 17) The application site is located within an Air Quality Management Area for NO_x:
In order to minimise the impact of the development on local air quality any gas boilers must meet a dry NO_x emission rate of less than 40mg/kWh.

END OF SCHEDULE