



Appeal Decision

Site visit made on 3 October 2023

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 APRIL 2024

Appeal Ref: APP/B5480/W/23/3318309

11 Kenley Gardens, Hornchurch RM12 6PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Millen, Millen Homes Limited against the decision of the Council of the London Borough of Havering.
 - The application Ref P1384.22, dated 24 August 2022, sought approval of details pursuant to condition No 2 of outline planning permission Ref: P0452.22, granted on 25 May 2022.
 - The application was refused by notice dated 28 February 2023.
 - The development proposed is a self-build plot on land to the rear of 11 Kenley Gardens, Hornchurch with matters of landscaping and appearance reserved.
 - The details for which approval is sought are: appearance and landscaping.
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Decision

1. The appeal is allowed and the reserved matters, namely appearance and landscaping, submitted in pursuance of condition No 2 attached to planning permission Ref P0452.22 dated 25 May 2022, are approved, subject to the following conditions:
 - 1) The development shall be carried out in accordance with the following approved plans:

KG BS 001 – BUILDING SECTION,
KG EL 004 – EAST ELEVATION,
KG EL 001 – FRONT ELEVATION,
KEN010 REV 3 – LANDSCAPING PLAN,
KG EL 002 – REAR ELEVATION,
KG FP 002 REV 0 – ROOF PLAN,
KG EL 003 – WEST ELEVATION
 - 2) The development shall be constructed using the following materials: black tongue and groove cladding, green wall systems, a sedum and wildflower roof system, black powder coated aluminium windows and doors and composite light oak coloured decking board in accordance with the approved plans and the Millen Design Access Statement dated 11th April 2023.

Preliminary Matters

2. Since the appeal was made, the Government revised the National Planning Policy Framework (the Framework). Policies material to this decision have not fundamentally changed. Therefore, I have not sought views on this.
3. The application sought permission for reserved matters, and to discharge conditions attached to the outline permission¹. However, the planning application form and the appeal form both concern approval of reserved matters, and both have been advertised as concerning only the approval of reserved matters: appearance and landscaping. The application was determined by the Council on this basis. I have therefore determined the appeal on the same.
4. A revised landscaping plan has been submitted as part of the appeal which shows the bike capacity within the bike shed. I have considered the revised plan under the principles established by the Courts in *Holborn Studios Ltd*². Given the nature and extent of the change, the amendment would not result in a development substantially different from that applied for. Nor would the amendment deprive those who were entitled to be consulted on the application of the opportunity to make representations that they may have wanted to make, on the application as amended. I have therefore taken the plan into consideration.
5. An application for costs was made by Mr Millen, Millen Homes Limited against the Council of the London Borough of Havering. This application is the subject of a separate Decision.

Main Issue

6. The Council has raised no objection to the matter of appearance, and I have no reason to disagree. The main issue therefore is the effect of the details of the landscaping scheme on the character and appearance of the area, with particular regard to existing landscape features.

Reasons

7. The appeal relates to the land to the rear of the houses in Kenley Gardens. It contains several trees which contribute substantially to the green, leafy character of the area.
8. The submitted landscaping plan clearly shows the layout of the approved development and the position of the building in relation to the existing shrubs and trees. It also shows the proposed number, species and position of new trees and hedging and indicates their respective sizes. The hard surface materials would be limited to the access drive, path and patio. Hedging would also be planted around the parking space, path and patio.
9. The proposed landscaping would enhance the character of the development and help it to settle into its back gardens context. Its proposals would not conflict with the existing landscape features which contribute to the character of the area, nor with the tree protection plan which forms part of the outline planning permission.

¹ Council Ref: P0452.22

² *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin).

10. I understand the Council's concern to protect trees. However, Condition 7 of the outline permission requires indications of all existing trees and shrubs on the site, details of any to be retained, together with the measures for their protection. This would ensure that further mitigation measures could be put in place to protect the trees and landscaping.
11. For these reasons, I find that the proposed landscaping scheme would retain the arboreal character of the area and would be sensitive to existing landscape features. The appearance of the development would be sensitive to its leafy backdrop of back garden planting. It complies with Policy 27 of the Havering Local Plan 2021 which requires development to incorporate a detailed and high quality landscape scheme which retains and enhances existing landscaping features, demonstrates how existing landscaping features will be protected and maximises opportunities for the planting of trees.

Other Matters

12. The principle of residential development on the site, the access, scale, layout and the impact of the building on neighbour's living conditions are established by the outline permission. There is no scope to reconsider these matters in this appeal.
13. Restrictive covenants, the management of trees on private land and the conduct of the appellant are private matters between the parties involved. Concerns regarding the impact on property value are also a private interest. As such, these are considerations to which I can give only limited weight.
14. There is no substantive evidence before me to show that the proposal would cause significant harm to wildlife or ecology. Furthermore, the outline planning permission requires, via condition, that biodiversity enhancement measures are implemented. Flooding and how the construction shall be managed would also be covered by the conditions specifically relating to these matters attached to the outline planning permission.

Conditions

15. I have considered the conditions requested by the Council in light of the tests as set out in the Framework. I have applied those necessary to protect the landscape character and appearance of the area and the landscaping features on site, which relate directly to these reserved matters; being a materials condition and a drawings condition showing their arrangement, as well as securing the landscaping plan.

Conclusion

16. The submitted details comply with the development plan, read as a whole. Therefore, the appeal is allowed.

L Reid

INSPECTOR