



Appeal Decisions

Site visit made on 9 April 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 MAY 2024

Appeal A Ref: APP/G5180/W/23/3327197

12 Christy Road, Biggin Hill, Westerham, Kent TN16 3DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Bruckner against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/22/04415/FULL1
 - The development proposed is the demolition of existing dwelling. Development of a detached and two semi-detached houses.
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Appeal B Ref: APP/G5180/W/23/3328227

12 Christy Road, Biggin Hill, Westerham, Kent TN16 3DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Bruckner against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/23/01783/FULL1
 - The development proposed is the demolition of existing dwelling. Development of three, three bedroom terraced houses.
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Decision

1. Appeal A and Appeal B are both dismissed.

Preliminary Matters

2. As set out above there are two appeals on this site. Appeal A relates to a scheme for the erection of a detached dwelling and pair of semi-detached dwellings as it was originally submitted to the Council. Appeal B relates to a revised scheme for a terrace of three dwellings, which was submitted to the Council, subsequent to the refusal of Appeal A. The two schemes differ in terms of the mix of properties and their design, including overall height. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
3. In respect of Appeal A, the third reason for refusal relates to insufficient information being provided to demonstrate that there would not be significant harm to legally protected or important species. However, the Council has confirmed that these concerns have been satisfactorily addressed and is now considered acceptable from an ecology perspective, subject to the imposition of conditions. Therefore, it is not pursuing this reason for refusal. As such, my decision is based on the outstanding issues in the remaining reasons for refusal for both appeals.

Main Issues

4. The main issues of both appeals are the effect of the proposed development on:
- The character and appearance of the area; and
 - The living conditions of neighbouring occupiers, with particular regard to outlook and light.

Reasons

Character and Appearance

5. The appeal site comprises a large plot, which is currently occupied by the remnants of a detached bungalow, granted prior approval for its demolition¹. The site rises gradually from the highway towards its rear boundary and is bound to the rear by a mix of close boarded fencing and shrubs.
6. The site is situated between 14 Christy Road (No.14), a modest, single storey bungalow occupying a large corner plot and 10 Christy Road (No.10), a larger bungalow with front and rear dormers. On the opposite side of the road, there is a mix of property styles, including bungalows and two-storey dwellings. The former plot of 9 Christy Road has been developed to provide two semi-detached houses and a detached property. The buildings on the opposite side of the street have mostly open frontages and are set back further from the road.
7. The wider surrounding area is characterised by mostly detached and semi-detached houses and bungalows situated in generously sized plots. There is a high degree of architectural variety in the area. However, there is general consistency in the pattern and density of development. The properties typically have both front and rear gardens, which contribute to a pleasant, suburban environment.
8. Appeal A seeks planning permission for a detached dwelling and two semi-detached dwellings. The detached property would have five bedrooms and the semi-detached properties would each have three bedrooms. In terms of the mix of dwellings proposed, these would broadly reflect the mix of properties found within the surrounding area. However, the proposed dwellings would be significantly taller than neighbouring properties and in particular would appear at odds with the modest height of the single storey bungalow (No.14). They would also occupy most of the plot frontage, which together with the overall height would result in a cramped appearance that is uncharacteristic of this part of the street.
9. Appeal B seeks planning permission for the erection of a terrace of three, two-storey dwellings. Each would have three bedrooms, rear garden and parking located to the front. The proposed terrace would be set further away from the side boundaries than Appeal A's scheme, and would also have a reduced overall height, with the use of hipped roofs. However, it would still exceed the height of both neighbouring properties, including No.10 which is situated on higher ground. The proposed terrace would also be uncharacteristic of neighbouring properties, which are mostly detached.

¹ Application Ref: 22/03653/DEMCON

10. Furthermore, the proposed terrace would be viewed as a singular building form and its simple design would not achieve a high-quality design approach that respects local character and compliments the surrounding area.
11. Whilst there is support at national and local level for optimising the use of land for housing, in respect of both appeal schemes, the proposed development would involve the introduction of built development that would occupy much the total width of the plot. This limited space to the side boundaries and very little space in front of the properties, would be dominated by parking and hardstanding. The height of the two-storey properties would also emphasise what would be viewed as a cramped development. Therefore, the proposed development would be inconsistent with the prevailing pattern of development including plot size and density and would represent an overdevelopment of the site that would not reflect the character and appearance of neighbouring properties, particularly in this part of Christy Road.
12. Paragraph 139 of the National Planning Policy Framework (the Framework) states that development that is not well designed should be refused. Both appeal schemes would result in excessive scale and massing that would cause harm to the character of the area and neither appeal scheme would sit comfortably within the street scene.
13. Consequently, I therefore find that both Appeal A and Appeal B would cause significant harm to the character and appearance of the area, contrary to Policies 3, 4 and 37 of the Bromley Local Plan, adopted 2019 (BLP). These policies require, amongst other things, high-quality design that responds to the existing character of a place and complements surrounding areas, in terms of scale, form and layout.
14. It would also be contrary to Paragraph 135 of the Framework which requires new development to add to the quality of the area, be visually attractive and sympathetic to local character and Paragraph 139 of the Framework which states that development that is not well designed should be refused.

Living Conditions

15. As outlined above the neighbouring properties No.10 and No.14 are detached properties, situated within spacious plots. Both neighbouring properties have side facing windows which overlook the appeal site and proposed development. Whilst I have not been presented with any floor plans for these properties which indicate the use of these rooms, third party representations indicate that at least some of these windows serve habitable rooms.
16. These existing dwellings on either side of the proposed development would maintain their primary views to the front and rear of their properties, which would not be harmed by the proposed development. However, there would be harm to the outlook of windows located in the side elevations facing towards the appeal site.
17. Although there are existing boundary fences, these do not entirely obscure views from these windows or light from entering. By contrast, in respect of Appeal A, the proposed dwellings would be significantly taller and by virtue of their close proximity, to these windows, be a visually dominant feature which would as a result of their scale, bulk and mass, cause harm to the outlook from these windows.

18. In respect of Appeal B whilst there would be a greater amount of separation from the proposed development to the boundary with No.14, it would nevertheless still be a prominent building form that would dominate outlook from these windows.
19. In respect of light, the proximity of the proposed dwellings to existing windows, together with their height would be likely to result in a reduction in daylight and sunlight entering these windows. I have not been presented with any substantive evidence that this would not result in harm to the living conditions of the neighbouring occupiers.
20. The proposed dwellings would have upper floor side windows. However, these could be obscure glazed to maintain privacy and it is agreed by both parties that this could be secured by imposition of a suitable planning condition. Based on the information before, I see no reason to disagree with this approach. Nevertheless, this does not alter my above findings.
21. Consequently, I therefore find that both Appeal A and Appeal B would cause harm to living conditions of neighbouring occupiers, with particular regard to outlook and light. It would therefore be contrary to Policies 3 and 37 of the BLP, which require amongst other things, new development to ensure a good standard of amenity and to ensure they are not harmed by inadequate daylight, sunlight, or by overshadowing.
22. It would also be contrary to Paragraph 135 of the Framework which requires a high standard of amenity for existing and future users.

Other Matters

23. In respect of both Appeal A and B, the proposed dwellings would meet the minimum space standards set out in Policy D6 of the Local Plan, with adequate external amenity space and parking provision. However, these are neutral factors that neither weigh for or against the proposal.

Planning Balance

24. The Council cannot currently demonstrate a 5-year supply of deliverable housing sites. The current published position² is 3.99 years supply, which is identified as being a significant undersupply. A recent appeal decision³ concluded that the figure was 3.38 years in August 2023. Both these figures are noted as representing a significant undersupply. Therefore, the provisions of Paragraph 11d of the Framework should be applied.
25. In such circumstances, as there would be no identified conflict with policies referred to in footnote 7 of paragraph 11 of the Framework, paragraph 11 d)ii applies, which states permission should be granted unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. Both Appeal A and Appeal B would result in the provision of two additional dwellings, within an existing residential area which would make a small contribution to toward housing supply within the Borough. This would support the Government's objective to significantly boost housing supply. The

² November 2021

³ Appeal Ref: APP/G5180/W/23/3315293

development would also take place on a small site, which could be delivered more quickly. These benefits attract moderate weight.

27. Against these benefits is the harm that would be caused, both Appeal A and Appeal B, would cause significant harm to the character and appearance of the area and to the living conditions of neighbouring occupiers. It would be contrary to Policies 3, 4 and 37 of the BLP and would therefore not accord with the development plan as a whole. In addition, the Framework places great emphasis on design and the need for proposals to be beautiful, sympathetic to local character and to add to the quality of the area.
28. Therefore, I conclude that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

29. For the reasons given above, the proposed development conflicts with the development plan as a whole. There are no other considerations, including the Framework which indicate a decision should be taken otherwise in accordance with the development plan. Therefore, both Appeal A and Appeal B should be dismissed.

K Lancaster

INSPECTOR

Appendix 1

List of those who have appealed.

Reference	Case Reference	Appellant
Appeal A	APP/G5180/W/23/3327197	Mr Paul Bruckner
Appeal B	APP/G5180/W/23/3328227	Mr Paul Bruckner