



Appeal Decision

Site visit made on 21 May 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 MAY 2024

Appeal Ref: APP/G5180/W/23/3323659

Land adjacent to 27 Holbrook Lane, Chislehurst, Bromley BR7 6PE

- 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 and Mrs R McAllister against the decision of the Council of the London Borough of Bromley.
 - The application reference is 22/04805/FULL1.
 - The development proposed is development of land by the erection of a two storey 4 bedroom detached house with integral garage, together with laying out of associated access, turning area and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for development of land by the erection of a two storey 4 bedroom detached house with integral garage, together with laying out of associated access, turning area and amenity space at land adjacent to 27 Holbrook Lane, Chislehurst, Bromley, BR7 6PE in accordance with the terms of the application, Ref 22/04805/FULL1, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effects of the proposed development on the character or appearance of the Chislehurst Conservation Area, with regard to the design of the proposed dwelling and the effect on trees.

Reasons

3. Chislehurst Conservation Area (the Conservation Area) covers a wide area comprising a mix of residential areas, nodes of community services and facilities, woodland and open space. The wooded areas, trees and open spaces are notable features in the area. The appeal site is located within sub unit 11 of the Conservation Area, as defined in the Council's Supplementary Planning Guidance for Chislehurst Conservation Area. This part of the Conservation Area is characterised by predominantly large, detached dwellings of varying ages and architectural forms on substantial plots, with many set amongst mature trees and landscaping. Trees and hedges provide a verdant road frontage and pleasant backdrop to the dwellings and together with grassed verges give a sense of spaciousness to the street scape. The significance of the Conservation Area is in part derived from these aspects.
4. The appeal site is described on the application form as a vacant garden plot and the Council identifies that it has been used as garden land. It contains several large trees including a number which front onto the road. As such, it

contributes positively to the character and appearance of the Conservation Area.

Design

5. The proposed dwelling would front onto Holbrook Lane on a similar line to other dwellings in the vicinity. It would be closer to the boundary with no. 33 than the dwelling proposed in the previous application on the site that was dismissed at appeal in 2021¹ (the 2021 appeal scheme). However, the spacing would not be markedly dissimilar to that which exists between other dwellings in the vicinity. The gaps to each side would enable views of the landscaping to the rear, similar in nature to those present between the existing built form. As such, the general siting and layout of the proposed dwelling on the plot would be respectful of the character and appearance of the area.
6. The proposed dwelling has a reduced footprint compared to the 2021 appeal scheme including its overall depth. In addition, there would be no accommodation at second floor level and no dormers are proposed. The crown roof element would be considerably smaller. Based on the submitted evidence, the dwelling proposed is markedly different to the 2021 appeal scheme in terms of its overall scale, massing, and general design.
7. The proposed dwelling would be a substantial property as are many others in the surrounding area including several nearby that have a considerable depth. Consequently, while the proposed dwelling would be of some depth, and its flank elevations would be partially visible from nearby vantage points on Holbrook Lane, this would not be an incongruous feature, even when viewed in association with the smaller property at no. 33. The design of the roof would not appear disproportionate in terms of the overall scale of the dwelling and so would not unacceptably add to its overall bulk.
8. The proposed dwelling would not be small, but neither would its scale and massing be so large as to be visually overwhelming and discordant in the street scene when viewed in the context of the surrounding built form. Its design would fit comfortably with the individual architectural styles along the lane.
9. Several of the dwellings along Holbrook Lane have hard surfacing to the front that accommodates vehicle parking in a similar way to that proposed. The paths to the side of the proposed dwelling are shown on the submitted plans as modest in scale and the rear patio would not be excessive in comparison to the size of the plot. In this respect I note that the plans submitted in evidence for the adjacent dwelling at no. 27, which has been built, show areas of hard landscaping around that dwelling and to the rear².
10. I therefore conclude that the design of the proposed development would not harm, and would preserve, the character and appearance of the Conservation Area. In this regard, the proposal would accord with the requirements of Policies 37 and 41 of the 2019 adopted Bromley Local Plan (the Local Plan). Amongst other matters, these policies expect development to be of a high standard of design and layout, and for development in a conservation area to preserve and enhance its characteristics and appearance, including complementing the scale, form, layout, and materials of existing buildings.

¹ Appeal reference APP/G5180/W/20/3251349

² Appendix 11 of the Council's Statement of Case

Trees

11. The trees along the front boundary of the site restrict views into it from Holbrook Lane to an extent although the canopy of several of the trees deeper into the site are visible above them. As noted above, the site makes a positive contribution to the character and appearance of the Conservation Area in part due to the presence of trees, a number of which are quite large. This is recognised by the inclusion of several of the trees within Tree Preservation Order (TPO) No. 2727/2021. The TPO includes two groups of trees comprising three Sweet Chestnuts and two Sycamores (G1) and two Sweet Chestnuts and one Sycamore (G2). In addition, five individual trees are included although T4 as defined on the TPO plan lies outside the site.
12. The Arboricultural Report³ submitted with the scheme assesses 36 trees on the site and recommends the removal of 17.
13. The Council sets out in its statement of case that there is no objection to the proposed removal of those trees not protected by the TPO, which would total 14. These are predominantly category U trees together with three category C trees. It includes two Silver Birch and an Oak which the Arboricultural Report and Supplementary Arboricultural Statement⁴ identify as dead; a Sweet Chestnut of around 5 metres in height and with a limited spread; a group of Lawsons Cypress trees ranging in height from around 10 to 14 metres; and a number of self-seeded Holly trees. As identified in the Supplementary Arboricultural Statement, I observed that the foliage of the Lawsons Cypress trees was not extensive and was browning in places. Consequently, any positive contribution to the character and appearance of the area is somewhat limited despite these trees being visible in the street scene. The Arboricultural Report identifies the Lawsons Cypress as non-native trees with a high water demand and that Holly can cause shading and reduction in understory growth.
14. Given the condition of several of these trees, the characteristics of the Holly and Lawsons Cypress trees, and that the Arboricultural Report states that the removal of trees on the site would improve the health of the higher-grade trees that would be retained, I concur with the Council's position. In this respect, I note that Policy 43 of the Local Plan allows for development that would lead to the loss of one or more significant and/or important trees in a conservation area where the removal is necessary in the interest of good arboricultural practice.
15. The four individual trees covered by the TPO within the site boundary would be retained. Two of the Sweet Chestnuts from within G1⁵ and one from within G2⁶ would be removed. These are identified as T17, T18 and T5 in the Arboricultural Report and the Supplementary Arboricultural Statement. The Arboricultural Report classifies these trees as category U although the Council argues that T5 could be considered as category C given its identified life expectancy of 10 to 20 years.
16. However, T5 is described as in decline, with apical die back, bark wounds, basal decay and the canopy being made up mostly of epicormic growth. The Arboricultural Report identifies T17 and T18 as having an identified life

³ Prepared by Valley Trees, 30 August 2022

⁴ Prepared by Valley Trees, 1 June 2023

⁵ Described as Area 2 in the Supplementary Arboricultural Statement

⁶ Described as Area 1 in the Supplementary Arboricultural Statement

expectancy of less than 10 years and describes them as being in decline. The Supplementary Arboricultural Statement prepared a few months later identifies these trees as dead. T5, T17 and T18 would be located outside the footprint of the dwelling. They are recommended for removal in the Arboricultural Report due to their condition and the impact they are having on higher grade trees with regard to water and nutrient abstraction.

17. From what I observed at my site visit, T17 and T18 contribute very little to the visual amenity of the area due to their condition. The removal of T5 would result in the loss of some tree cover but the change to the visual amenity of the area would be limited as several nearby taller trees with generally larger spreads would be retained, thus preserving the layering within the visible tree canopy.
18. The visually prominent trees on the frontage would be retained. The tall trees to the rear of the site would also be retained as would the majority along the northern boundary. I am mindful that the Inspector for the 2021 appeal scheme concluded that the loss of trees within the middle of the site adds to a limited degree to the harm they identified to the Conservation Area. However, based on the submitted evidence, it appears that the trees identified for removal in this current appeal proposal are not exactly the same as with the 2021 appeal scheme, and as noted above, a number of the trees in the middle of the site are identified as dead in the more recently undertaken arboricultural surveys.
19. The Council has raised concern about post development pressure to prune or remove additional trees due to the remaining outdoor amenity space that would not be covered by tree canopy. The appellant has submitted an indicative soft landscaping layout with the appeal to demonstrate how a useable garden could be achieved. This illustrates that there would be scope to have a rear garden with areas that would be outside of the canopy of the trees which would be of a reasonable size, in addition to the rear patio. The adjacent trees have relatively high canopies which would result in a reasonably open outlook when in the garden.
20. In any event, the Council would have ultimate say over whether the trees could be felled or managed in the future due to their protection through the TPO and the procedures to be followed for works to trees in a conservation area. The advice in the Planning Practice Guidance about applications for works to a protected tree is focussed on the amenity value of the tree rather than the aspirations of nearby occupiers. Therefore, while future occupiers may have concerns with respect to the trees, this would be unlikely to provide a compelling argument to undertake works to those trees covered by the TPO unless supported by technical evidence.
21. Concerns have been raised about the ecological value of the trees that would be lost. While trees in a poor physical condition and deadwood can offer habitat value, I am mindful that the reason why the Arboricultural Report recommends several of the trees for removal is because of the improvements that this would make to the health of the higher category retained trees through a reduction in competitive growth and for water and nutrients. Additionally, in line with Policies 43 and 73 of the Local Plan, replacement planting would need to be provided. Suitable supplementary planting can be subject to a condition and incorporate biodiversity enhancements.

22. For the above reasons, despite the removal of several trees within the site, the proposed development would present as a large, detached dwelling on a substantial plot, set amongst mature trees and landscaping. I am therefore satisfied that the verdant qualities of the Conservation Area would be preserved, as would its character and appearance.
23. Accordingly, I conclude that the proposed development would not harm, and would preserve, the character and appearance of the Conservation Area with regard to the effect on trees. Consequently, the proposal would accord with the requirements of Policies 37, 41 and 43 of the Local Plan as summarised above. It would also accord with Policy 73 of the Local Plan which requires proposals to take particular account of existing trees which in the interests of visual amenity and/or wildlife habitat, are considered desirable to retain.

Other Matters

24. The ground floor of the proposed dwelling would be screened from 33 Holbrook Lane by a relatively tall hedge. The only window on the side elevation facing this property would serve a bathroom and a condition could be imposed to require obscure glazing. The two-storey element of the proposed dwelling would be in a similar position to no. 33 and together with the separation distance from the side elevation of this property, outlook for residents of no. 33 would not be harmed.
25. There would be sufficient separation distance from the front elevation of the proposed dwelling to those across Holbrook Lane to ensure there would not be a loss of privacy for residents of these dwellings, including nos. 16, 18 and 20. For the same reason, there would not be an unacceptable loss of outlook for those residents.
26. The nature of the site would change from one of former garden land to accommodating built development. There is little doubt that the proposed dwelling would be visible in the street scene, but this would not be an unusual arrangement. In any case, change does not always equate to harm, which would be the case here given my reasoning above.
27. No evidence has been presented to demonstrate that local infrastructure has insufficient capacity to support the proposed development. Maintenance of Holbrook Lane, a private road, would be a matter for the appellant to address. Any construction impacts would be of a temporary nature.

Conditions

28. I have considered the conditions suggested by the Council, having regard to the six tests set out in the 2023 National Planning Policy Framework (the Framework), and have amended the wording of certain conditions in the interests of precision.
29. As well as the standard time condition, and for certainty, one is required to ensure that the development is carried out in accordance with the approved plans.
30. In the interests of the character and appearance of the area, conditions are necessary to secure a landscaping scheme and details of the external materials to be used. A condition is necessary to secure details of the surface water drainage to reduce the risk of flooding and to prevent the discharge of surface

water onto the highway. These are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness.

31. In the interests of the character and appearance of the area, conditions are necessary to require details of any boundary enclosures and that the development is carried out in accordance with the measures in the submitted Arboricultural Report. In the interests of biodiversity, a condition is also necessary to ensure that the development is carried out in accordance with the recommendations in the submitted Preliminary Ecological Assessment and Preliminary Roost Assessment. To protect the living conditions of neighbouring residents, a condition is necessary to require that specified windows are obscure glazed. A condition is necessary to ensure that any mud that may accumulate on the highway during construction, which the appellant would have control over, is removed in the interests of highway safety.
32. The permitted development rights for development within the curtilage of a dwellinghouse as conferred by Schedule 2 Part 1 of the GPDO⁷, are qualified or removed for development within Classes A, B and E on land covered by article 2(3), which includes conservation areas. Consequently, a condition removing permitted development rights to protect the visual amenities of the Conservation Area would not be necessary as regard is already given to this designation in the GPDO. The restrictions and conditions imposed in Class C would offer similar protection. The proposed dwelling would be on a sizeable plot and so the removal of permitted development rights would not be necessary to protect the living conditions of neighbouring residents. In my view therefore, there is not a clear justification to restrict national permitted development rights in this case as required by paragraph 54 of the Framework.
33. Given the scale of the development, a condition requiring a road conditions survey is unnecessary. I am also mindful that the appellants highlight that they would be subject to the governance of the private road covenants.

Conclusion

34. The proposal would preserve the character and appearance of the Conservation Area and would not harm the significance of this designated heritage asset. I have had regard to the other considerations raised, but they would not result in unacceptable effects.
35. The proposal would accord with the development plan as a whole, and there are no material considerations of sufficient weight to indicate that permission should be withheld. I therefore conclude that the appeal should be allowed.

F Wilkinson

INSPECTOR

⁷ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

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: 79956/1; 79956/2; 79956/3.
- 3) Prior to commencement of the development hereby permitted, details of a scheme of landscaping, which shall include the materials of paved areas and other hard surfaces, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting season following the first occupation of the dwelling or the completion of the development, whichever is the sooner. 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 to those originally planted.
- 4) Prior to commencement of the development hereby permitted, details of the materials to be used for the external surfaces of the building shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
- 5) (a) Prior to commencement of the development hereby permitted (excluding any ground clearance or demolition), a scheme for the provision of surface water drainage, which shall include measures to prevent the discharge of surface water from the site on to the highway, shall be submitted to and approved in writing by the Local Planning Authority.
(b) Before the details required to satisfy Part (a) are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (SuDS) to ground, watercourse or sewer in accordance with drainage hierarchy contained within the London Plan and the advice contained within the National SuDS Standards.
(c) 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 (attenuate) and control the rate of surface water discharged from the site as close to greenfield runoff rates (21/s/ha) as reasonably practicable and the measures taken to prevent pollution of the receiving groundwater and/or surface water
(d) The drainage scheme approved under Parts a, b and c shall be implemented in full prior to first occupation of the development hereby permitted and shall be retained thereafter.
- 6) During the construction of the development hereby permitted, any accumulation of mud on the highway from the construction activities shall be removed without delay and in no circumstances shall be left behind at the end of the working day.
- 7) Before the development hereby permitted is first occupied, details of the boundary enclosures and gates to be erected, including height, type, and location, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first

occupation of the development hereby permitted and shall be retained thereafter.

- 8) The development shall be implemented in accordance with the Arboricultural Report of 30/08/2022 prepared by Valley Trees under the supervision of an arboricultural specialist.
- 9) The development shall be implemented in accordance with the recommendations in table 4 of the Preliminary Ecological Appraisal and Preliminary Roost Assessment of 22/11/2022 prepared by Matthew Game.
- 10) Before the development hereby permitted is first occupied, the proposed windows serving first floor southern elevation en-suite bathroom to bedroom 4 and the first floor northern elevation en-suite bathroom window to bedroom 3 shall be obscure glazed to a minimum of Pilkington privacy Level 3 and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and the windows shall be retained as such thereafter.