



Appeal Decision

Site visit made on 27 February 2024 by N Manley BA (Hons)

Decision by S Edwards BA MA MATCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2024

Appeal Ref: APP/G5180/D/23/3331654

124 Worlds End Lane, Orpington, Bromley BR6 6AS

- 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 Charles Toomey against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/23/02063/FULL6.
 - The development proposed is described as the "Erection of new gates and brick 1.8m pillars at the front of 124 worlds end lane, set back 5m from the road. The walls past the gates to the road be 900mm in height and partially incorporate railings."
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Government published a revision of the National Planning Policy Framework (the Framework) in December 2023. Whilst I have had regard to the revised national policy as a material consideration, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issues

4. The main issues are the effect of the proposal upon the character and appearance of the area, having particular regard to a protected tree, and highway safety.

Reasons for the Recommendation

Protected Tree

5. No 124 Worlds End Lane (no 124) sits to the north of Worlds End Lane. It is a large, detached property and significantly set back from the road frontage within a spacious plot. Opposite the appeal site, the road is lined with thick vegetation. Aside from its immediate neighbour, no other properties are overly

- immediately visible nearby. This secluded setting, coupled with the abundance of mature trees nearby give the area a semi-rural, quiet, and sylvan setting.
6. The proposed gates and brick pillars would be located within proximity to a Scots Pine tree, situated in the front garden of the appeal site, and which is protected by a Tree Protection Order¹. The pine tree is of a considerable height and, given its prominent positioning within the front lawn, sits distinctly from other nearby trees and is highly visible within the street scene. As a result, the tree makes a significant contribution to the visual amenity and verdant character of the area.
 7. The Tree Survey, Arboricultural Impact Assessment and Method Statement (Ref: TCL-CT-124WEL AMS [2020]) (the tree report) submitted by the appellant as part of the appeal appears to be associated with previous development on the appeal site from several years prior. Whilst it does provide evidence displaying the Root Protection Area (RPA) of the tree, it only does so in relation to the existing driveway and entrance and does not show the proposed development and its positioning concerning the tree.
 8. Notwithstanding the above, and having regard to the information shown on the Tree Protection Plan contained in the tree report, it is evident that the proposed pillars and walls would encroach within the RPA of the protected tree. No detailed information has however been presented to demonstrate that alternatives were considered to avoid construction works within the tree's RPA, and there is no overriding justification for constructing the development within the RPA.
 9. The digging of foundations required for the construction of the proposed development could cause significant harm to the rooting system of the tree. In the absence of detailed evidence to the contrary, it is therefore by no means certain that the tree would recover from potential root damage associated with the proposal. The development could compromise the long-term health and wellbeing of the tree, which would be detrimental to the character and appearance of the area. For these reasons, I can only ascribe very limited weight to the presented tree report.
 10. The appellant has provided some information within their statement as to how they would seek to preserve the health and vitality of the tree. However, whilst the proposed measures outlined may generally be described as good practice, they do not specifically address how this proposed development can be achieved whilst ensuring any potential tree damage is mitigated against. Whether or not the actions of the previous owner may have already compromised the long-term health of this protected tree, this is no justification for causing further harm.
 11. In the absence of sufficient information to the contrary, I am unable to conclude the development could be undertaken without causing unacceptable harm to the character and appearance of the area, having particular regard to the protected pine tree. The development therefore fails to accord with Policy 73 of the Bromley Local Plan (adopted January 2019) (BLP) which, amongst other things, seeks to ensure development takes particular account of existing trees on site and on adjoining land. However, I find no conflict with

¹ Tree Preservation Order No. 2337

Policy 43 of the BLP, which pertains specifically to trees in conservation areas, and is therefore not relevant to the appeal proposal.

Highway Safety

12. The site is located upon a section of narrow highway which has no footpath or road markings. There are no visible road junctions within close proximity to the appeal site. From the existing vehicular access to the site, there are sufficient sightlines along the highway to the east. Towards the west, sightlines are comparatively more limited, due to the curvature of the road. As part of my site visit, I observed sparse levels of motorised traffic, with vehicles travelling at relatively low speed.
13. The access would have a maximum width of 7.5 metres and the proposed gate would be set back significantly from the road. This, together with the siting of the wall at a slight angle, would ensure that adequate visibility is maintained either side of the access for motorised vehicles exiting the site. Furthermore, the road circumstances would in all likelihood encourage drivers to proceed with caution when exiting the site. These factors, combined with the relatively low speed of vehicles along what appears to be a lightly trafficked road, lead me to conclude that the proposal would not adversely affect highway safety.
14. For the above reasons, the development would not compromise highway safety and would therefore be consistent with the requirements of Policy 32 of the BLP, which seeks to ensure development does not significantly adversely affect road safety.

Conclusion and Recommendation

15. Although the proposal would not have a significant adverse effect on highway safety, this is outweighed by the harm which the development would cause to the area, with particular regard to the protected pine tree. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

N Manley

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

S Edwards

INSPECTOR