
Appeal Decision

Site visit made on 20 August 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2024

Appeal Ref: APP/D5120/W/24/3338430

20 St James Way, Sidcup, Bexley DA14 5ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr M S Bharaj (Adamline) against the decision of the Council of the London Borough of Bexley.
- The application Ref is 23/01542/FUL.
- The application sought planning permission for erection of six detached dwellings with access from St. James Way, parking and landscaping, without complying with a condition attached to planning permission Ref 22/02548/FUL, dated 26 January 2023.
- The condition in dispute is No 2 which states that: *The development hereby permitted shall only be carried out in accordance with the following approved plans and documents:*
Plans: C1343-02, P1, dated March 2021, C1343-50, P1, dated March 2021, C1343-51, P1, dated March 2021, C1343-52, P1, dated March 2021, C1343-53, P2, dated 4 October 2022, C1343-56, P3, dated 4 October 2022, C1343-57, P3, dated 4 October 2022, C1343-102, P9, dated 4 October 2022, C1343-120, P2, dated 25 October 2022, C1343-121, P2, dated 25 October 2022, C1343-122, P3, dated 25 October 2022, C1343-123, P2, dated 25 October 2022, C1343-124, P4, dated 25 October 2022, C1343-125, P3, dated 18 March 2022, C1343-126, P4, dated 4 October 2022, C1343-127, P2, dated 1 August 2022, C1343-103, P8, dated 1 August 2022, C1343-128, P6, dated 1 August 2022, C1343-01, dated March 2021.
Documents: Fire Strategy - May 2021. Heritage Impact Assessment - August 2022. Transport Statement - September 2022. Arboricultural Survey & Planning Integration Report 20 August 2022.
- The reasons given for the condition is: *For the avoidance of doubt and in the interests of good planning.*

Decision

1. The appeal is allowed and planning permission is granted for erection of six detached dwellings with access from St. James Way, parking and landscaping at 20 St James Way, Sidcup, Bexley DA14 5ER in accordance with the application Ref 23/01542/FUL, without compliance with condition

number 2 previously imposed on planning permission Ref 22/02548/FUL dated 26 January 2023 and subject to the conditions in the schedule below.

Background and Main Issues

2. Planning permission 22/02548/FUL was granted on 26 January 2023 (2023 permission) and permits six detached dwellings on the appeal site. One would replace the existing dwelling facing St James Way, while the other five would be to the rear.
3. On 22 September 2023, the Council granted a non-material amendment under s96A of the Town and Country Planning Act 1990 (as amended), which amended the description of the approved development¹. I have used the amended description in the banner heading above.
4. The appeal proposal is for variation of the approved plans as listed in condition 2 of the 2023 permission. Specifically, an alternative design is proposed for the approved dwellings on Plots 4, 5 and 6. In each case, the height of the pitched roof would be increased, and an additional bedroom included within the roofspace, with a dormer window in the rear elevation.
5. The main issues are whether the proposed variation of condition 2 would be acceptable, having regard to:
 - the effect on the character and appearance of the area, including the setting of the High Beeches Conservation Area, and
 - the effect on living conditions within neighbouring properties, with particular regard to privacy and outlook.

Reasons

Character and Appearance, including effect on Conservation Area

6. The appeal site is largely enclosed by the rear gardens of dwellings on St James Way and The Grove. Along St James Way, the neighbouring dwellings are generally detached two storey properties of varied design, some of which include substantial dormer windows. Along The Grove, the mainly semi-detached dwellings are of more modest proportions, without roof extensions. The land slopes down, and the proposed dwellings on plots 4, 5 and 6 would be below the level of those on St James Way but above those on The Grove.
7. The approved design of the dwellings would include hipped roofs, with a flat crown. This design approach would be preserved, despite the increased roof height. The dormer windows would be appropriately detailed and proportionate to the scale of the roof. Notwithstanding the additional height at the apex of the crown roof, the dwellings would not be unduly top-heavy or excessively large. The proposed design would not be a notable departure from the prevailing, and varied, scale and proportions of existing dwellings around the site.
8. Views into the site are limited, as the proposed dwellings would be set back behind the existing built-up frontages. While the dwellings would be larger than those fronting The Grove, and on higher ground, they would be behind

¹ London Borough of Bexley application ref 22/02548/FULMIN

the existing dwellings and would not be unduly dominant in the street scene. The proposed design of plots 4, 5 and 6 would remain consistent with the appearance of the development as a whole, noting that the approved dwelling on Plot 3 would also include roof accommodation, including a dormer window.

9. The significance of the adjacent High Beeches Conservation Area includes a series of distinctive, architect-designed 1930s dwellings, in a regular and rhythmic layout, along avenues containing mature beech trees and grass verges. Although there are views between the buildings to green spaces beyond, the appeal site is set well back, behind the 1930s houses and beyond their fairly generous back gardens.
10. The setting of the Conservation Area already includes housing of various styles, post-dating the 1930s layout and with a different character and appearance. The increased height of the proposed dwellings would not intrude into, or otherwise detract from the layout of the avenues. Nor would the dwellings be an unduly prominent or intrusive feature in the background of the street scene. As such, despite the site's close proximity to the boundary, the effect on the character and appearance of the Conservation Area would be neutral and its setting and significance would be preserved.
11. For the reasons given above, I conclude that the proposed variation of condition 2 would not be harmful to the character and appearance of the area, including the setting of the High Beeches Conservation Area. There would be no conflict with relevant requirements in Policies SP5 and DP11 of the Bexley Local Plan 2023. These policies, amongst other things, require that design respects existing character and context, with regard to its height, scale and massing, while recognising that local character evolves over time.

Living Conditions

12. The proposed dwellings would be elevated above the neighbouring dwellings in The Grove. The gardens of the adjacent dwellings are enclosed by close-boarded fences but are not otherwise well screened. As such, there would be views between the existing and proposed dwellings, all of which include first floor windows.
13. The proposed dormers would face in the same direction as the approved first floor bedroom windows on the rear elevations. Although they would be at a higher level, they would not materially increase the outlook towards neighbouring dwellings, given that windows on the first floor are already approved. Some level of overlooking between adjacent houses is to be expected within a residential area. The proposed layout has already been concluded to maintain an acceptable standard of privacy within neighbouring properties, including the closest neighbouring dwellings at 46 and 48 The Grove. The additional window at roof level would maintain a similarly acceptable standard of privacy.
14. The proposed dwellings would be clearly visible from neighbouring properties, as are the existing dwellings on the surrounding streets. These include some quite imposing properties on the higher land in St James Way. As described above, the appearance of the proposed dwellings on plots 4, 5 and 6 would not be harmfully affected by the proposed amendment. Their

siting would not change, so the separation distance would be as already approved. There would still be an acceptable outlook from the adjoining properties, across their gardens and the wider residential area. Notwithstanding the additional height, the proposed dwellings would not be unreasonably imposing or intrusive within that outlook.

15. For the above reasons, I conclude that the proposed variation of condition 2 would not unacceptably harm living conditions within neighbouring properties, with regard to privacy and outlook. There would be no conflict with relevant requirements in Policy DP11 of the Bexley Local Plan, which include that development proposals ensure that appropriate levels of privacy and outlook are provided, and existing properties' amenity is appropriately protected.

Other Matters

16. Since the application relates only to the proposed variation to roof design on three plots, matters relating to the principle of development on the site, including the effect on biodiversity, are outside the scope of this appeal. While I have noted that interested parties are frustrated by submission of successive applications, and alleged inconsistency with the treatment of proposed house extensions nearby, it is a well-established principle of the planning system that each proposal should be considered on its merits and that is what I have done.
17. The Council's arrangements for site visits at the time of the original application are not relevant to my consideration of the current proposal. My site inspection included consideration of the effect of the proposal from the surrounding area, including properties within The Grove.
18. There is no substantive evidence that the plans are inaccurate or otherwise misrepresent the relationship with neighbouring properties. The proposed increase in height would not harmfully obstruct daylight or sunlight to existing dwellings, given the separation distances and relative orientation of the dwellings. There is no objective evidence that the additional bedrooms would bring the development into conflict with housing mix requirements within the development plan. Neither is there any substantive evidence that the additional bedrooms would render the proposed access and parking arrangements inadequate. No objection was raised by the Highways Authority, subject to the reimposition of relevant conditions attached to the 2023 permission.

Conditions

19. Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. The Council has provided an updated schedule of conditions, which takes account of conditions on the 2023 permission which have already been discharged in full or in part.
20. A condition specifying the date by which the planning permission should be implemented remains necessary and I have imposed a condition which is consistent with the time limit on the 2023 permission.

21. A condition requiring compliance with the approved plans is necessary in the interests of certainty. I have accordingly imposed an amended version of condition 2, which includes the amended drawings of plots 4, 5 and 6 as submitted with this application. I have included plan titles, for ease of reference, and have corrected the date of the Fire Strategy.
22. I have otherwise reimposed the conditions attached to planning permission 22/02548/FUL, omitting matters which the Council has confirmed to have been discharged. I have used the updated wording suggested by the Council, with some minor amendments for clarity. This includes conditions covering the issues raised in the Highways Authority's response to the application, with updated wording where appropriate. The appellant has had the opportunity to comment on the updated conditions and has raised no objections. In the event that any requirements in those updated conditions have been discharged since the appeal was lodged, that is a matter which can be addressed by the parties.

Conclusion

23. For the reasons given above, the appeal is allowed.

Jane Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun not later than three years beginning with the date on which the original planning application, reference 22/02548/FUL was granted. Planning permission 22/02548/FUL was granted on 26 January 2023.
- 2) The development hereby permitted shall only be carried out in accordance with the following approved plans and documents:

Plans:

- C1343-01 Existing OS Red Line Plan
- C1343-02 P1 Existing Site Plan
- C1343-102 P9 Proposed Site Plan
- C1343-50 P1 Proposed Dwelling 1 – Plans and Elevations
- C1343-51 P1 Proposed Dwelling 2 – Plans and Elevations
- C1343-52 P1 Proposed Dwelling 3 – Plans and Elevations
- 22953 PL04 P1 Plot 4 Proposed Planning Variations Plans, Elevations, Sections
- 22953 PL05 P1 Plot 5 Proposed Planning Variations Plans, Elevations and Sections
- 22953 PL06 P1 Plot 6 Proposed Planning Variations Plans, Elevations and Sections
- C1343-103 P8 Proposed Site Section Markers
- C1343-120 P2 Proposed Site Section/Elevation AA & BB

- C1343-121 P2 Proposed Site Section/Elevation CC & DD
- C1343-122 P3 Proposed Site Section/Elevation EE & FF
- C1343-123 P2 Proposed Site Section/Elevation GG & HH
- C1343-124 P4 Proposed Site Section/Elevation II
- 22953 PLS 04 P1 Proposed Site Section/Elevation Section J-J
- 22953 PLS 01 P1 Proposed Site Section/Elevation Section K-K
- 22953 PLS 02 P1 Proposed Site Section/Elevation Section L-L & M-M
- 22953 PLS 03 P1 Proposed Site Section/Elevation Section N-N & O-O

Documents: Fire Strategy - May 2022, Transport Statement - September 2022, Arboricultural Survey 20 August 2022.

- 3) The external materials shall comply with those approved under Discharge of Conditions application 22/02548/FUL01.
- 4) The construction of the development shall proceed in accordance with the details approved under condition 4, 'Construction Management Plan', within Discharge of Conditions application 22/02548/FUL01.
- 5) The construction of the proposed access roads as well as method of construction, drainage, street lighting, kerb alignment, levels, areas of highway visibility and surface treatment shall be in accordance with the details approved under condition 5, 'Highway visibility', within Discharge of Conditions application 22/02548/FUL01.
- 6) The electric vehicle recharging points shall be constructed in accordance with the details approved under condition 6, 'Electric Vehicle Charging', within Discharge of Conditions application 22/02548/FUL01. The details as approved shall be constructed and maintained at all times.
- 7) If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing. Before development restarts at that part of the site a Risk Assessment and Remediation Scheme shall be produced by (a) suitably qualified person(s) and submitted for written approval to the Local Planning Authority. The development may only restart on that part of the site in accordance with the approved Remediation Scheme. A Verification Report that demonstrates the effectiveness of the works carried out pursuant to the approved Risk Assessment and Remediation Scheme shall be submitted for written approval to the Local Planning Authority. No occupation or use of the development shall take place until the Verification Report has been approved.
- 8) The use of the land for vehicle parking shall be in accordance with the details approved under condition 9, 'Parking', within Discharge of Conditions application 22/02548/FUL01. The details as approved shall be constructed and maintained at all times.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, or any Order revoking and re-enacting that Order, the spaces and garages shown reserved for the parking of cars shall be used for or available for such use at all times.

- 10) Before any part of the development hereby permitted is first occupied, the access to the site shall be provided with those parts of 2.4m x 2.4m pedestrian visibility splays which can be accommodated within the site in both directions and shall be maintained free of all obstacles to visibility between heights of 0.6m and 2.0m above the level of the adjoining highway.
- 11) Details of a scheme including lining and signage for the management of the parking areas shall be submitted to and approved in writing by or on behalf of the Local Planning Authority before any part of the development is first occupied and the parking areas shall be operated in accordance with the approved scheme at all times unless previously agreed in writing by or on behalf of the Authority.
- 12) The arrangements for storage of refuse and recycling including means of enclosure shown on the approved drawings shall be completed before any part of the development is first occupied and shall thereafter be permanently maintained.
- 13) Walls, fences, and other means of enclosure shall be implemented in accordance with the details approved under condition 13, 'boundary fence', within Discharge of Conditions application 22/02548/FUL01. The details as approved shall be constructed and maintained at all times.
- 14) The soft landscaping works shall be carried out in accordance with the details approved under condition 14, 'soft landscaping', within Discharge of Conditions application 22/02548/FUL01. Any trees or plants which, within a period of 5 years from the carrying out of the soft landscaping works, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species to those originally planted.
- 15) The parking facilities for 2 bicycles for each unit shall be in accordance with the details approved under condition 15, 'cycle', within Discharge of Conditions application 22/02548/FUL01. The approved facilities shall be installed before the development is first occupied and shall be permanently maintained as such thereafter.
- 16) A scheme of biodiversity improvements shall be carried out in accordance with the details approved under condition 16a, 'Biodiversity', within Discharge of Conditions application 22/02548/FUL01 and shall thereafter be retained for the lifetime of the development.
- 17) The use of the land for vehicle parking shall be in accordance with the details approved under condition 9, 'Parking', within Discharge of Conditions application 22/02548/FUL01. The details as approved shall be constructed and maintained at all times.
- 18) The works shall be carried out in accordance with the recommendations of the Arboricultural Survey and Planning Integration Report 20 August 2022 of the original parent application 22/02548/FUL.
- 19) A scheme for a Sustainable Drainage System shall be installed in accordance with the details approved under condition 20, 'SUDs', within Discharge of Conditions application 22/02548/FUL01. The details as approved shall be

constructed and maintained at all times. The development shall only be carried out in accordance with the approved details.

END