
Appeal Decision

Site visit made on 16 February 2016

by A J Mageean BA (Hons) BPI PhD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 April 2016

Appeal Ref: APP/G5180/W/15/3137512
Sunset Hill, Hillbrow Road, Bromley BR1 4JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Cavendish and Gloucester Properties Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/15/02144/FULL1, dated 14 May 2015, was refused by notice dated 29 September 2015.
 - The development proposed is erection of part two/part three storey building to provide 10 two bedroom apartments (revision to permission DC/14/04139).
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Decision

1. The appeal is allowed and planning permission is granted for erection of part two/part three storey building to provide 10 two bedroom apartments (revision to permission DC/14/04139) at Sunset Hill, Hillbrow Road, Bromley BR1 4JL in accordance with the terms of the application, Ref DC/15/02144/FULL1, dated 14 May 2015, subject to the conditions set out in the Schedule to this decision.

Preliminary Matters

2. An extant approval granted in March 2015 exists for the demolition of the existing dwelling and the erection of a part two/part three storey building comprising 9 two bedroomed apartments and 14 car parking spaces. It seems to me that the approved scheme has a significant prospect of being built and that this is a material consideration in this case.
3. I noted on my site visit that the bungalow known as Sunset Hill which previously occupied this site has been demolished.

Main Issues

4. The main issues in this case are:
 - 1) Whether the scheme proposed would result in an over-intensive form of development and, if so, whether material harm would result from this;
 - 2) The effect of the proposed development on the living conditions of the occupiers of properties opposite the appeal site on Hillbrow Road with particular reference to outlook.
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Reasons

Over-intensive development

5. The appeal site is a large plot fronting onto Hillbrow Road. It is bound by Tresco Close to the south, the property known as Upfield to the north and backs onto the long rear gardens of the properties on Coniston Road. This is a reasonably spacious residential area with properties of varying character, including both detached two storey dwellings and three storey terraced town houses on Tresco Close.
6. The appeal site rises by approximately 5m from south west to north east and has mature trees and shrubs on its boundaries. I noted on my site visit that the central part of the site has been cleared. A number of the remaining trees on the perimeter are the subject of a tree preservation order.
7. This development proposes an increase in the density on this site compared to the permitted scheme from 56 dwellings per hectare to 62 dwellings per hectare, and a notional increase in the number of occupants from 36 to 40. The level of communal private amenity space provision would be the same for both developments. However, at 62 dwellings per hectare the revised scheme would be in the range of 50-76 dwellings per hectare set out in The London Plan (Consolidated with Alterations Since 2011) 2015 (The London Plan).
8. This is a good sized plot and as such there would be a reasonable amount of amenity space around this development. Also, as its density would be within the policy guidelines quoted above I do not consider that this scheme would represent over development of this site. Further, as private amenity space provision in the form of either garden area or balconies would be made for each of the proposed flats, I consider that the amount of communal amenity space proposed would be adequate.
9. This development would make provision for 14 car parking spaces, which would provide 1.4 spaces per flat. I note that the Council's Highway Development Engineer has no objection to this level of provision and also that it would be in excess of the level of provision suggested by The London Plan for development of this density.
10. Whilst the Council recognises that this level of provision would be technically sufficient, it is suggested that as this is a relatively remote location a higher standard of provision is required. However, I note that a train station and the local shops at Downham are located within 1 mile of this site and therefore do not consider this to be such a remote location as to warrant an exception to policy. I also note that 10 secure cycle storage spaces are to be provided on site. I therefore consider that the provision of 1.4 spaces per flat would be satisfactory for this development.
11. I conclude on this issue that the proposed development would not represent an over intensive use of this site. It would comply with the London Borough of Bromley Unitary Development Plan 2006 (the UDP) Policy BE1 which, amongst other things, seeks to ensure that new development respects the amenity of existing and future occupants.

Living Conditions – outlook for neighbours

12. The Council is concerned about the effect of this revised development on the outlook for the occupiers of the three properties opposite the site on Hillbrow Road which would face the south west elevation of the proposed building.
13. The development would be of contemporary design with a flat roof. As the site has a gradient the development has three storeys to its south western (front) elevation, and steps down to two storeys at its north eastern (rear) elevation. I note from the indicative street scene (Drawing No PD-16) provided by the appellant that the building would sit slightly below the ridge height of the adjacent properties on either side of the appeal site at both 4-7 Tresco Close and Upfield. However, it would sit further forward in the plot than the previous bungalow which had a similar front building line to the adjacent properties on either side.
14. The Council notes that the development would be approximately 35-40m away from the two storey detached dwellings sited opposite the appeal site on Hillbrow Road. These properties sit at a lower level than both the road and the appeal site. As such the proposed development would be a prominent element of the front outlook from these dwellings.
15. In considering the effect of the proposed development on the outlook of the occupiers of the properties opposite the appeal site on Hillbrow Road, I have noted the objections from the occupiers of these properties. However, there is a reasonable separation distance between the proposed building and these properties, and there are mature trees and shrubs on the site boundaries, including some on the boundary fronting Hillbrow Road. I have also noted the minor differences between the current application and the extant approval. Taking all of these matters into account I do not consider that either the overall appearance of the proposed development, or the presence of balconies on the south west elevation, would be unduly intrusive.
16. I therefore conclude that the proposed development would not have a detrimental effect on the living conditions of the occupiers of the properties facing the appeal site on Hillbrow Road with particular reference to outlook. As such, I do not see a conflict with the UDP Policy BE1 which, amongst other things, states that new development should respect the amenity of occupiers of neighbouring buildings.

Other Matters

17. I note the concerns of the Council and local residents about the effect of the additional traffic generated by this development on the condition of the unadopted and unmade Hillbrow Road. However as the current proposal for 10 flats is unlikely to have a materially greater impact than the extant approval for 9 flats I have given this matter limited weight.
18. Local residents have also raised concerns about the appearance of this development. I recognise that this scheme is of contemporary design, but the approved scheme is of a similar design and would have a similar visual effect. I also acknowledge the concern from local residents that the obscured glazing used in the windows on the north east elevation would not prevent these windows being opened. However, the proposed development would have the same fenestration pattern as the extant approval and the privacy of neighbours would not be harmed if the appeal scheme were implemented instead. Also, as there is some mature

vegetation on this boundary and the properties on Coniston Road have long rear gardens any opportunities for overlooking would not be significant. I therefore consider that the condition on the extant approval relating to obscured glazing on this elevation would reasonably control this issue.

Conditions

19. The Council has suggested a number of planning conditions which I have considered against the advice contained in the National Planning Policy Guidance. As a result I have amended some of them for clarity, and eliminated duplication.
20. I have included a condition requiring development to be carried out in accordance with approved plans as this provides certainty.
21. Conditions relating to hard and soft landscaping and the protection of existing trees are necessary in the interests of the protection of the character and appearance of the area. A condition relating to the lighting of the access drive and car parking area is necessary in the interests of the safety of residents and other road users. A condition to secure a Construction Method Statement is necessary to ensure there are no significant adverse effects upon the living conditions of local residents or upon Hillbrow Road. A condition requiring privacy screening for balconies is required to protect the privacy of the occupiers of both this development and the properties adjacent to the appeal site. I have included a condition requiring details of external materials to be submitted in the interests of the character and appearance of the area. It is essential that the requirements of the above conditions are agreed or put into place prior to the development commencing to ensure that the development is acceptable in respect of the matters they address.
22. A condition relating to bicycle storage is necessary in the interests of reducing reliance on private motor vehicles. A condition requiring details of refuse collection facilities is necessary to secure satisfactory living conditions for residents. A condition requiring obscured glazing to be used in the windows on the north east elevation is required to protect the privacy of the occupiers of both this development and the properties adjacent to the appeal site. A condition requiring details of surface water drainage to be provided is required to ensure that sustainable drainage provisions are put in place, in the interests of environmental sustainability. I have included a condition requiring the provision and retention of car parking spaces and turning areas in the interests of all road users.
23. I have insufficient evidence to demonstrate that there are any permitted development rights in relation to external areas which need to be restricted in this instance. I have not specified the materials to be used in the parking and turning area as this is covered by condition No 3. I have not included the condition requiring a 1m space be provided between the flank elevation of the development and its boundary as the plans provided already comply with this requirement. I have not included the condition suggested by the Council relating to damage to the road surface because, the road is in private ownership and I regard any damage to it arising from construction as a civil matter.

Conclusion

24. I have found in this case that the proposed development would not be an over-intensive form of development, would provide sufficient communal amenity space and car parking provision, and that it would not have a detrimental effect on the

outlook of the occupiers of the properties facing the appeal site on Hillbrow Road. I also recognise the benefit of the provision of an additional unit of accommodation.

25. For these reasons, and taking into account all other matters raised, I conclude that the appeal should succeed.

AJ Mageean

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 4071-PD11, 4071-PD12, 4071-PD13, 4071-PD14, 4071-PD16.
3. No development shall commence until details of a scheme of hard and soft landscaping have been submitted to an approved in writing by the local planning authority. These details shall include:
 - i. the materials of paved areas and other hard surfaces;
 - ii. boundary treatments; and,
 - iii. planting plans including plant size and species.

The hard landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.

4. The provision for the storage of refuse (including recyclable materials) shall be completed before any part of the development hereby permitted is first occupied and shall be retained permanently thereafter.
5. The provision for the storage of bicycles shall be completed in accordance with details to be submitted to and approved in writing by the local planning authority before any part of the development hereby permitted is first occupied and shall be retained permanently thereafter.
6. No development shall commence until details of the design of the lighting of the access drive and car parking area have been submitted to an approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the approved lighting shall be retained permanently thereafter.
7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the development die or are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
8. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

9. No fires shall be lit within 6 metres of the nearest point of the canopy of any retained tree. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
10. No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The submitted details shall be in accordance with the approved plans insofar as materials are shown on the plans. Development shall be carried out in accordance with approved details.
11. The building hereby permitted shall be not be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. The submitted details shall:
 - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and,
 - iii. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker or any other arrangements to secure the operation of the scheme throughout its lifetime.

The drainage scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.

12. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;
 - iv. wheel washing facilities;
 - v. the route used by construction and delivery vehicles to access the site;
 - vi. measures to control the emission of dust and dirt during construction; and,
 - vii. delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

13. Details of the means of privacy screening for the balconies shall be submitted to and approved in writing by the local planning authority before any work is commenced. The development shall be carried out in accordance with the approved details and the screening retained permanently thereafter.
14. Before the development hereby permitted is first occupied, the windows on the ground and first floors of the north east elevation shall be fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.
15. The building shall not be occupied until space has been laid out within the site for car parking and turning space in accordance with the approved plans. The car parking spaces and turning areas hereby provided shall be kept available at all times for the parking and manoeuvring of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.