



Appeal Decision

Site visit made on 15 December 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 10th January 2018

Appeal Ref: **APP/G5180/W/17/3182905**

100 Madeira Avenue, Bromley BR1 4AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by South East Living Group against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/17/02290/OUT, dated 15 May 2017, was refused by notice dated 7 August 2017.
 - The development proposed is demolition of existing property and the erection of 3 townhouses, comprising 2 three bedroom and 1 four bedroom with car parking and garaging.
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Decision

1. The appeal is allowed and outline planning permission is granted for demolition of existing property and the erection of 3 townhouses, comprising 2 three bedroom and 1 four bedroom with car parking and garaging, in accordance with the terms of the application Ref DC/17/02290/OUT, dated 15 May 2017, subject to the attached schedule of conditions.

Procedural Matters

2. The application was in outline with matters of access and layout to be determined at this stage. Issues of scale, appearance and landscaping were reserved for future consideration. In addition to the layout shown on Drawing No 916:1083/SK01A, the submitted information includes reference to the possible height of the building and the provision of accommodation on four floors. Although the additional drawings illustrate only one way in which the proposed development could be accommodated on the site, I have had regard to this information in my determination of the appeal.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. Madeira Avenue is characterised by a mix of detached, semi-detached and terraced dwellings which vary in style and height. There are also townhouse properties with integral garages. No 100 is a detached, L-shaped, two-storey dwelling with a large front projection. The front drive slopes down towards the road and there is an integral garage at lower ground floor level. The front garden is enclosed by a retaining wall which abuts the rear of the footway.

5. The properties on either side of No 100 are rather different in form and style. No 102 is a two-storey detached house of simple design with a pitched roof. It has an integral garage at lower ground floor level and rooflights serving a loft extension. To the east, Nos 94a-98, is a group of three flat-roofed townhouses with accommodation on three floors, one of which has a garage within the front garden. There is therefore little sense of rhythm or uniformity in the street scene on the northern side of Madeira Avenue in the vicinity of the appeal site. However, one common feature is the use of the sloping ground to accommodate garaging below the main living space within a number of the properties.
6. In this context the proposal to replace the existing dwelling with a terrace of three town houses would not look out of place. The layout plan shows that the main front elevation would align with the front elevations of the adjacent properties. Even though the bay windows would project further forward, the building as a whole would not appear prominent within the street scene. The submitted drawings show a ridge height that would be marginally lower than that of the existing house and similar to the adjacent properties. Although the plans are only illustrative, I am satisfied that they demonstrate that a building of an acceptable height which would provide three dwellings could be accommodated on the site.
7. The proposal would include providing each dwelling with an integral garage at lower ground floor level. This would be in keeping with properties in the vicinity that have adopted the same approach to dealing with the change in levels. The scheme would require the excavation of the front garden in order to provide driveways to each of the properties and an additional parking space. This would result in the loss of the existing lawn and would restrict the area available for landscaping. However, this arrangement would be similar to some properties elsewhere in the street. In any event, there are no trees in the front garden that would be affected and details of a landscaping scheme could be addressed through the reserved matters.
8. The rear garden of No 100 rises steeply from the back of the house and includes a terrace and retaining walls. The proposal would project further back on the site and would require extensive earthworks to create the building, construct new and additional retaining walls, and provide terraces and steps. However, the building would be sited more centrally on the plot and there would be adequate gaps between the building and the shared boundaries with the adjacent houses. The proposal would project beyond the rear of No 102 and marginally beyond the back of No 98. However, this would not be apparent from any public viewpoints or cause harm to the street scene.
9. The site is covered by a blanket Tree Preservation Order. Most of the mature trees are towards the rear and can be seen above the roof of the existing house. They therefore make a positive contribution to the character of the area. An arboricultural report was submitted with the application. This identified that in order to implement the development three young trees would be felled. The remaining ones would be retained and would form the backdrop to the proposal. The upper crowns would still be visible from the street. On this basis the Council did not object to the scheme and was satisfied that the trees could be protected through the imposition of appropriate conditions. Notwithstanding the concerns raised by local residents, I am therefore satisfied that the long term health of the trees could be adequately safeguarded.

10. The illustrative drawings show that lower ground floor would include the garage, a utility room and shower. The remaining area is shown as a 'bonus room' which would have limited access to light and is therefore likely to be used as storage rather than habitable accommodation. The primary habitable rooms would be on the remaining three levels, including within the roof space. As there are other properties in the area with accommodation on three levels and in the roof space, this would not be out of keeping with the locality.
11. Taking all these factors into consideration, I conclude that the proposal would not harm the character and appearance of the area. It would comply with saved Policies BE1 and H7 of the London Borough of Bromley Unitary Development Plan which, amongst other things, require new development to complement the scale, form and layout of the adjacent buildings and not to detract from the existing street scene.

Other Matters

12. The occupants of No 102 expressed concern about various matters including overshadowing of their conservatory, which abuts the shared boundary. However, the height of the proposed building and its distance from the boundary would be sufficient to ensure that any loss of light or overshadowing would not be materially harmful. I am also satisfied from the illustrative layout that the proposal would not result in an unacceptable loss of outlook from the upper floor windows of No 102. Any potential overlooking could be prevented through the imposition of conditions to secure the use of obscure glazing in windows on the flank elevations. These details could be addressed as part of the reserved matters. Issues relating to the party wall that forms the boundary are not matters for me to consider in the context of S78 appeal.
13. The front of the proposed building would be closer to the road than part of the existing house. The illustrative drawing of the front elevation shows windows on two floors with rooflights serving the rooms in the roof. This is typical of development in a suburban area and would not give rise to unacceptable loss of privacy for the occupants of the houses on the opposite side of the street.
14. In the vicinity of the appeal site, Madeira Avenue is not subject to waiting restrictions. Many of the properties have garages and/or off-street parking within their driveways. On-street parking is available and although well-used, there was no definitive evidence to suggest that it is adversely affecting the free flow of traffic. Neither does it appear that excessive demand for on-street parking is causing unacceptable inconvenience to residents. The proposal would marginally reduce the availability of kerbside space, but would provide two off-street parking spaces for each dwelling. Consequently, the highway authority did not object to the scheme and I see no reason to take a different view.
15. The proposal would result in a re-profiling of the ground and removal of a significant amount of material. The effects of this on the stability of the ground and the neighbouring dwellings have been raised by the occupants of the adjacent properties. However, in my view, subject to the use of appropriate engineering methods during demolition and construction of the building and its associated terraces, there is no reason why the stability of the ground should be undermined. This can be controlled by the imposition of a condition requiring agreement to a Construction Method Statement, a matter that I shall return to later.

Conditions

16. In the event that the appeal was allowed the Council has suggested a number of conditions in addition to those relating to the standard time limit and the approval of reserved matters. I have considered these and imposed them where they meet the tests set out in Paragraph 206 of the National Planning Policy Framework. However, I have amended the wording for the sake of clarity, precision and to avoid repetition.
17. Most of the submitted plans were for illustrative purposes only. However, the access and layout, including the footprint of the building and the proposed terraces at the rear, are shown on Drawing No 916:1083/SK01A. A condition specifying this as the approved scheme is required in the interests of certainty. Conditions to agree site levels and slab levels are necessary to protect the appearance of the area. A condition to secure sustainable drainage for the site and to prevent surface water discharging on to the highway is required in order to reduce flood risk.
18. I note that the Council's tree officer recommended that conditions to protect the trees would be necessary. The appellant's Tree Survey Report provided details of the existing trees, those to be retained and protection measures during construction. Therefore, having regard to the blanket Tree Preservation Order that affects the appeal site, I have imposed an appropriate condition to protect the trees.
19. Conditions to agree details of the garages, parking spaces, the gradient of accesses, and the materials to be used on the driveways, are necessary to ensure adequate provision of parking spaces for vehicles and bicycles and to secure safe and satisfactory access to the dwellings. In order to promote recycling and protect the area's appearance, agreement is necessary regarding the provision of facilities for storage of refuse and recycling. A condition requiring the dwellings to be adaptable and accessible is justified in order to provide accommodation that can be adapted to the needs of future occupants.
20. Appropriate boundary treatments are required in the interests of the appearance of the development and to protect the living conditions of adjoining occupiers, particularly in relation to privacy. Agreement to a Construction Method Statement is required in order to protect the appearance of the area, the living conditions of neighbours and highway safety. However, conditions specifying obscure glazing and preventing insertion of additional doors and windows are not required at this stage as the appearance of the building is a reserved matter.

Conclusion

21. The government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. I have concluded that the proposal would not be harmful to the character and appearance of the area and in this respect would comply with the requirements of the development plan. Notwithstanding the concerns of Members, neighbours and other local residents, I am also satisfied that, subject to the imposition of appropriate conditions, there are no other matters which would cause the scheme to fail.

22. For these reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be allowed, subject to the conditions set out in the attached schedule.

Sheila Holden

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the access and layout shown on Drawing No: 916:1083/SK01A.
- 5) No development shall take place until details of the existing site levels and proposed slab levels of the building hereby permitted have been submitted to and approved by the local planning authority. The development shall be constructed strictly in accordance with the approved details.
- 6) No building hereby permitted shall 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. Where a sustainable drainage scheme is to be provided, 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;
 - iii) ensure that no surface water shall discharge onto the highway and,
 - iv) 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 and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 7) No development shall take place until details of parking spaces, garages and secure storage of bicycles, and have been submitted to and approved in writing by the local planning authority. The parking spaces, garages and secure bicycle storage shall be implemented as approved and retained for the purpose of parking vehicles and bicycles throughout the lifetime of the development.
- 8) No loose materials shall be used for the surfacing of the driveways or parking areas hereby permitted.

- 9) The floors of the garages shall be constructed at such levels that the gradient of the access driveways does not exceed 1:10 at any point, as calculated from the level at the back edge of the footway to the front of the garage floor.
- 10) No development shall take place until details of the boundary treatments have been submitted to and approved in writing by the local planning authority. The boundary treatments shall be implemented in accordance with a timetable to be agreed with the local planning authority or prior to first occupation of any of the dwellings hereby permitted, whichever is the earliest.
- 11) The development shall be implemented in accordance with the Tree Protection Plan, shown on Drawing Number 16-455-TPP and the methodology set out in the Tree Survey Report by Canopy Consultancy, dated May 2017. The works shall be carried out under the supervision of a retained arboricultural specialist.
- 12) The development hereby permitted shall be built in accordance with the criteria set out in the Building Regulations M4(2) 'accessible and adaptable dwellings' and shall be permanently retained thereafter.
- 13) No development shall take place above slab level until details of the facilities for the storage of refuse and recyclable materials has been submitted to and approved in writing by the local planning authority. The facilities shall be implemented as approved prior to first occupation of any of the dwellings hereby permitted and shall be retained as approved throughout the lifetime of the development.
- 14) 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 means of ensuring the stability of the ground throughout the construction period;
 - ii) parking of vehicles of site operatives and visitors;
 - iii) routes for construction traffic;
 - iv) loading and unloading of plant and materials;
 - v) storage of plant and materials used in constructing the development;
 - vi) the erection and maintenance of security hoarding;
 - vii) measures to control the emission of dust and dirt during construction;
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

End of schedule of conditions