



Appeal Decision

Site visit made on 5 December 2023

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal Ref: APP/N5090/W/23/3321582

51 Beresford Avenue, Whetstone, London N20 0AD

- 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 Millen Homes Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/6069/OUT, dated 22 December 2022, was refused by notice dated 30 March 2023.
 - The development proposed is described as 'outline application with landscaping reserved for the demolition of part of no.51 Beresford Avenue and the erection of 6 semi-detached dwellings.'
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Decision

1. The appeal is allowed and planning permission is granted for outline application with landscaping reserved for the demolition of part of no.51 Beresford Avenue and the erection of 6 semi-detached dwellings on land at 51 Beresford Avenue, Whetstone, London Barnet N20 0AD in accordance with the terms of the application, Ref 22/6069/OUT, dated 22 December 2022, subject to the attached Schedule of Conditions.

Preliminary Matters

2. The address in the heading and decision above has been taken from the application form, albeit omitting the repetition of the site address.
3. There is extant planning permission for the dwellings and garages within the rear curtilage of 51 Beresford Avenue¹ (the Previous Appeal), with a different access off the turning head at the bottom of Beresford Avenue. The appeal proposal reflects the layout of the dwellings subject to the previous appeal and is a material consideration of significant weight.
4. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

Main Issue

5. Taking the above into account, the main issue is:
 - The effect of the access proposed as part of the development on the character and appearance of the area.

¹ APP/N5090/W/20/3248645

Reasons

6. The application site is within a primarily residential area characterised by a linear pattern of development, with two-storey terraces and semi-detached properties fronting the road. The appeal site is located to the rear of 51 Beresford Avenue (No.51), a two-storey semi-detached dwelling that occupies a prominent position at the head of a long, straight residential cul-de-sac. The end of the cul-de sac is defined by three pairs of semi-detached properties that are angled around a turning head with a space between each pair. While varied extensions to the side elevations of some properties has reduced the width of the open spaces between the properties, they are still clearly visible. The front gardens of the properties around the turning head have been hard surfaced and are open to the front to allow for private parking areas.
7. The appeal proposal would include the formation of an access between No.51 and 53 Beresford Avenue, following the demolition of an existing extension on the side elevation of No.51. The removal of the existing extension would return the property closer to its original form. As detailed above, the existing side extensions on the street are varied and there are also examples of properties that have not been extended to the side. As such the removal of the side extension at No.51 would not interrupt a consistent pattern of development or have a detrimental impact on the existing street scene.
8. While the proposed access would not have the outward of appearance of a driveway, its appearance would not depart considerably from that of front gardens adjacent to the turning head, which are hard surfaced and open. As such the proposal would not constitute a visually disruptive and uncharacteristic form of development and would be in keeping with the prevailing characteristics of the street scene.
9. The proposed development would form a small cul-de-sac off the bottom of the existing turning head. It is acknowledged that the proposed access to the development would not reflect the established pattern of development within the area. However, as detailed above, the existing extant planning permission is a material consideration of significant weight. The Previous Appeal also included an access off the turning head at the end of Beresford Avenue, albeit in a different position. There would appear to be a reasonable prospect of the previous permission being implemented if the appeal is dismissed. I have not seen any substantive evidence to the contrary. Therefore, I give the fallback position considerable weight. As the development approved as part of the Previous Appeal would also be accessed off the turning head at Beresford Avenue, the access proposed as part of the appeal proposal would have a similar effect.
10. For the reasons detailed above the access proposed as part of the development would not have an unacceptable harmful impact on the character and appearance of the area. It would therefore comply with Policies D3, D4 and D5 of the London Plan (2021), Policies CS NPPF, CS1 and CS5 of the Barnet's Local Plan (Core Strategy) Development Plan Document (2012) and Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document (2012), the aims of which include the enhancement of local context by delivering buildings and spaces that positively respond to local distinctiveness and are fully accessible.

Other Matters

11. A range of other matters have been raised by interested parties. I note that previous applications have been refused and appeals have been dismissed at the site. This is not a reason for resisting the proposal. Furthermore, this does not prevent the appellant from applying for permission for an alternative proposal.
12. The Previous Appeal concluded its proposal would be acceptable. The differences between that proposal and this one are primarily centred on the proposed access arrangement.
13. The proposal seeks to build over a railway tunnel, but Network Rail has not lodged an objection to the proposal nor did it for the previous one. I thus have no substantive evidence which indicates that its location is problematic. I also have no firm evidence which suggests that wildlife or protected species will be harmed.
14. There is no substantive evidence before me to demonstrate that the submitted plans, visualisations and noise assessment are inaccurate. My assessment of this appeal is based on details on the plans and information as submitted.
15. Highway officers have raised no concerns regarding the proposed parking arrangement. They have confirmed that the proposed access will allow safe passage to and from the site, including by a fire appliance with a maximum width of 2.5m. This is also confirmed in the road safety audit submitted with the application.

Conditions

16. I have considered the conditions put forward by the Council and the appellant's comments on them. I have included those conditions that meet the tests set out at paragraph 56 of the Framework, with some minor editing of the suggested wording for precision and enforceability.
17. Conditions relating to the submission and timing of the reserved matters and the commencement of development are necessary to comply with Section 92 of the Town and Country Planning Act 1990. Further to this, in the interests of clarity, full details of the information required to be submitted as reserved matters has been highlighted. Conditions are also needed to require the development to accord with the plans insofar as they relate to the details sought for approval, as the proposal has been assessed on those terms.
18. A report detailing noise and vibration levels from the railway and any mitigation measures, the details and depth of any excavations and foundations and details and implementation of acoustic fencing is required in the interests of residential amenity.
19. Conditions requiring the submission of a Demolition and Construction Management and Logistics Plan, a restriction on the hours of construction and the provision of proposed parking areas is required in the interests of both residential amenity, highway safety and the free flow of traffic.

20. To secure suitable integration between the development and surrounding area a condition requiring the levels of all buildings and highways, as well as any other level changes is required.
21. In the interests of nature conservation and ecological enhancements, it is necessary to require the development to include the implementation of the details proposed within drawing BAB 002 R1 AIA and Habitat Plan. A condition relating to tree protection is necessary to ensure that any trees identified for retention are protected during construction.
22. Conditions relating to cycle parking and storage and waste storage and collection arrangements are required to ensure that satisfactory provision is made to protect the appearance of the area and meet the requirements of future occupants.
23. To meet the changing needs of future occupants a conditions requiring that the proposed dwellings are accessible and adaptable is required.
24. Conditions requiring that the dwellings incorporate the installation of water efficiency measures and electric car charging facilities are necessary to ensure they are sustainably constructed.
25. With the exception of the acoustic fencing, details of boundary treatments and hard and soft landscaping can be assessed when approval of landscaping is sought. As the development is located on private garden land it has not been demonstrated that a land contamination condition is necessary. A condition removing permitted development rights for the erection of gates of other access restriction is not necessary.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed.

C Livingstone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) 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.
- 2) 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.
- 3) The reserved matters submitted pursuant to this planning permission shall include the following information:

Full details of both hard and soft landscape works including ground levels or contours; means of enclosure; hard surfacing materials and minor artefacts and structures (e.g. furniture, refuse or other storage units, signs, lighting, external services). Soft landscape details shall include planting plans with specification (including cultivation and other operations associated with plant and grass establishment), schedules of plants noting species, plant sizes and proposed numbers/ densities where appropriate, a schedule of tree planting to include the specification of tree planting pits where appropriate with details of any irrigation or drainage infrastructure, tree root barriers (if necessary) to prevent damage or disruption to any proposed hard surfacing or underground services, drains or other infrastructure and details of the location of external lighting sufficient to demonstrate how lighting is to be achieved without conflict to proposed tree planting, with allowance for reasonable growth. The hard and soft landscaping details shall be accompanied by an implementation programme.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:

BAB 001 R2 Site Layout Plan,
BAB 002 R1 AIA and Habitat Plan
BAB 004 R0 Site Sections
BAB 004.1 R0 Road Sections
BAB 005 R2 Waste Strategy Plan
BAB 005.1 R2 Highway Plan
BAB DV 001 R1 Development views
BAB EL 001 R0 Elevations and floor plans P3-8
BAB PEL 001 R1 Proposed Elevations and Floor Plans No.51
BAB PEL 001 R0 Existing Elevations 49 and 51
BAB PFP 001 R0 51 Floor plans existing
BAB SS 001 R0 Street Scene Elevations
Location Plan
Noise Assessment Sept 2022
Design and Access Statement
Waste Strategy

Road Safety Audit Brief GG119

Road Safety Audit 05.01.2023

- 5) No development shall take place until a report which includes details of mitigation measures to protect the development from noise and vibration generated from the railway has been submitted to and approved in writing by the local planning authority. The report shall ensure that the levels of noise generated from the railway will be no higher than 35dB(A) from 7:00am to 11:00pm and 30dB(A) in the bedrooms of the development from 11:00pm to 7:00am. The report shall include all calculations and baseline data and be set out so that the local planning authority can fully audit the report and critically analyse the content and recommendations. The mitigation measures specified within the approved report shall be implemented in their entirety prior to the first occupation of the dwellings and retained as such thereafter.
- 6) No development shall take place until details of the location, extent and depth of all excavations for foundations and services (including but not limited to electricity, gas, water, drainage and telecommunications) in relation to the railway tunnel shaft on site, and a method statement for implementation, have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the details approved under this condition.
- 7) No demolition or construction works shall take place until a Demolition and Construction Management and Logistics Plan has been submitted to and approved in writing by the local planning authority. The Demolition and Construction Management and Logistics Plan shall include, but not be limited to, the following information: (i) details of the routing of construction vehicles to the site, hours of access, access and egress arrangements, security procedures and the provision of a competent banksman; (ii) site preparation and the construction stages of the development; (iii) details of provision for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials; (iv) details showing how all vehicles associated with the construction works will be properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway; (v) the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works; (vi) details of contractor's compound and car parking arrangements; (vii) details of interim car parking management arrangements for the duration of construction; and (viii) details of a community liaison contact for the duration of all works associated with the development. The development shall be implemented, carried out and/or completed in accordance with the details approved under this condition.
- 8) No development shall take place until details of the levels of the buildings and roads in relation to the adjoining land and highways and any other changes proposed in the levels of the site have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the details approved under this condition.
- 9) The dwellings hereby permitted shall be constructed to have 100% of the water supplied to them by mains water infrastructure provided through a

water meter or water meters and each dwelling shall be constructed with water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G2 of the Building Regulations 2010 (or in equivalent standards if replaced) to ensure that a maximum of 105 litres of water is consumed per person per day. The dwellings shall be maintained as such thereafter.

- 10) The dwellings hereby permitted shall be constructed to achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such a measure of accessibility and adaptability for house design if replaced). The dwellings shall be maintained as such thereafter.
- 11) No demolition or construction works shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and a method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced) have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the details approved under this condition and no site works (including any temporary enabling works, site clearance and demolition) shall take place until the tree protection has been erected as shown on the approved tree protection plan. This protection shall remain in position until after the work is completed and no material or soil shall be stored within these fenced areas at any time.
- 12) Demolition and construction works, including site clearance, shall be implemented in accordance with the mitigation strategy and the biodiversity enhancements detailed in BAB 002 R1 AIA and Habitat Plan.
- 13) Notwithstanding the details shown on the plans submitted and otherwise hereby approved, prior to the first occupation of the dwellings hereby permitted details of the acoustic fencing to be erected on the site shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the details approved under this condition prior to the first occupation of the dwellings and retained as such thereafter.
- 14) Prior to the first occupation of the dwellings hereby permitted, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with satisfactory collection points, shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the details approved under this condition prior to the first occupation of the dwellings and retained as such thereafter.
- 15) Prior to the first occupation of the dwellings hereby permitted, details of cycle parking spaces and cycle storage facilities shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the details approved under this condition prior to the first occupation of the dwellings and retained as such thereafter.
- 16) Prior to the first occupation of the dwellings hereby permitted, space shall be laid out within the site in accordance with drawing BAB 005.1 R2

Highway Plan for cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.

- 17) Prior to the first occupation of the dwellings hereby permitted, details of the Electric Vehicle Charging facilities to be installed in the development shall be submitted to and approved in writing by the local planning authority. These details shall include provision for not less than 20% of the proposed car parking spaces to be provided with active Electric Vehicle Charging facilities and a further additional 20% of the proposed car parking spaces to be provided with passive Electric Vehicle Charging facilities. The development shall be implemented in accordance with the details approved under this condition prior to the first occupation of the development and be maintained as such thereafter.
- 18) Demolition and construction works shall take place only between 8:00am and 6:00pm on Monday to Friday, 8:00am and 1:00pm on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

***** END OF CONDITIONS *****