



Appeal Decision

Site visit made on 15 October 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 DECEMBER 2024

Appeal Ref: APP/G5180/W/24/3341585

50 Avalon Road, Orpington BR6 9AY

- 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 Jatinder Puri of J & G Financials against the decision of the Council of the London Borough of Bromley.
 - The application reference is DC/23/04578/FULL1.
 - The development proposed is the demolition of domestic garage and erection of a new two-storey detached dwelling house and associated landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of domestic garage and erection of a new two storey detached dwelling house and associated landscaping at 50 Avalon Road, Orpington BR6 9AY in accordance with the terms of the application, reference DC/23/04578/FULL1, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the area; and
 - Living conditions for residents of neighbouring properties on Avalon Road, with particular regard to whether it would be unacceptably overbearing.

Reasons

Character and appearance

3. No 50 Avalon Road is a two-storey semi-detached dwelling on a corner plot, which sits alongside the junction of Avalon Road and Woodley Road. It has a reasonably generous rear garden; a detached double garage at the far end of the rear garden has a gated driveway off Woodley Road. The wider area is predominantly residential, and nearby housing mainly comprises two-storey pairs of semi-detached houses, though there are also some short terrace blocks. Housing is of a variety of styles and finishes with no single dominant "type", though the neat and generally simple forms give streets a pleasant and orderly feel. Verdant rear gardens make a positive contribution to the spacious suburban character of the area, especially where (as in the case of the appeal property) they border side streets.
4. The proposed development is the demolition of the garage and the erection of a two-storey detached house, separating off part of the existing rear garden of No 50 to serve the new dwelling. The new plot would be small by the standards of the area; the development would also lead to the loss of part of the rear

garden of No 50 alongside Woodley Road which, as I have just described, makes a positive contribution to the character of the area. In these respects, therefore, the development would not enhance local distinctiveness.

5. In other respects, the proposed development would not cause unacceptable harm to the character or appearance of the area. Although the proposed dwelling would be detached, in size and form it would be comparable to some of the smaller dwellings already found in the area. It would be on the same building line as the adjacent No 2 Woodley Road, so would not be an intrusive feature in that street. Although the two-storey side wall of No 2 directly abuts the shared boundary with the appeal site, the new dwelling would be offset from it by 1m and so would comply with this specific requirement set out in Policy 8 of the 2019 Bromley Local Plan ("the BLP"). Neither the existing garage on the site nor the high fence and gates in front of it are especially attractive, and appeal scheme would see them replaced with a simple modern dwelling, of appropriate materials and with a suitable landscaping scheme (matters which could be addressed by conditions).
6. Nevertheless, for the reasons I have set out in paragraph 4, I conclude that the proposed development would cause some harm to the character and appearance of the area. Though the impacts of this would be limited, there would be conflict with Policies 3, 4 and 37 of the BLP, and with Policies D3 and H2 of the London Plan 2021. Together (and among other things) these policies seek to ensure that all development is well-designed, including by responding positively to local distinctiveness. I find no conflict with Policy 8 of the BLP, as I have explained above.

Living conditions

7. The new dwelling would be taller and wider, and closer to the rear of houses on Avalon Road, than the garage which currently stands on the appeal site. It would be visible from the rear windows and gardens of Nos 40 to 50 Avalon Road, and from the rear garden of the neighbouring property No 2 Woodley Road, though mature planting in rear gardens (especially along boundaries) would limit its impact on many of these neighbours. It would be clearly seen, however, from the host property No 50 Avalon Road, and from the neighbouring No 48. It would also be particularly close to the rear garden of No 48, with only 1m separation between the new house and the boundary wall of No 48's rear garden.
8. The house would have a relatively simple form, with limited fenestration and other relief features on its rear and side elevations. It would be prominent when seen from the immediately adjacent part of the rear garden of No 48, at least compared to the present situation. However, the side elevation of the dwelling would be more than 17m from the rear elevation of No 50 and, because of the oblique relationship, slightly further from the rear of No 48. While this separation distance would be less than those generally found in the neighbourhood (though greater than that between No 4 Woodley Road and the rear of the side extension to No 27 Pendennis Road, very close to the appeal site), in my general experience it would be acceptable for a side-to-rear relationship such as would be created here. Overall, and notwithstanding the obvious change that the appeal scheme would represent for the occupiers of No 48 Avalon Road particularly, I am satisfied that it would not be unacceptably overwhelming or overbearing.

9. I conclude that the proposed development would not cause unacceptable harm to neighbours' living conditions. There would therefore be no conflict in this respect with Policies 4, 8 and 37 of the BLP, or with Policies D3, D6 and H2 of the London Plan 2021. Together, and among other things, these policies seek to ensure that new development respects the amenity of occupiers of neighbouring buildings.

Planning Balance and Conclusion

10. The proposed development would not cause unacceptable harm to neighbours' living conditions. However, I have found that it would cause harm to the character and appearance of the area and, while this harm would be limited in scale and scope, the proposal would therefore conflict with the development plan taken as a whole.
11. There is no dispute between the main parties that the local planning authority cannot demonstrate a deliverable five-year supply of housing sites; the latest information which has been put before me is that it has a supply of 2.96 years. The "tilted balance" described in Paragraph 11 d) of the Framework is therefore engaged. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
12. The Framework seeks to significantly boost the supply of housing. The appeal scheme would add a single new dwelling to the borough's housing stock and, while this would make only a small contribution to boosting the supply of homes, in view of the significant undersupply in the area it is a benefit to which I give considerable weight. The Framework also seeks to achieve well-designed places, and to ensure that developments function well and add to the overall quality of the area, are sympathetic to local character, and establish or maintain a strong sense of place. As I have already described, the proposed development would not enhance local distinctiveness, and to this extent therefore it would conflict with the aims of the Framework. At the same time, the limited harm which this would cause would to some extent be offset by the factors I have set out in paragraph 5, including the replacement of an unsympathetic garage building, fencing and gates. Taking all of this together, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits.
13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise. While I have found that the proposed development would not comply with the provisions of the development plan in respect of local distinctiveness, the material considerations which I have identified (including the Framework) indicate that a decision other than in accordance with the development plan is appropriate. I therefore conclude that the appeal should be allowed and planning permission granted.

Conditions

14. I have considered the conditions suggested by the Council having regard to the tests in the Framework and the advice in the Planning Practice Guidance. Where necessary I have altered the proposed wording in the interests of clarity and effectiveness.

15. In addition to the standard time limit condition (1) I have specified the approved plans so as to provide certainty (2). A condition requiring the submission of, and compliance with, a Construction and Environmental Management Plan (3) is necessary in the interests of pedestrian and driver safety and to protect living conditions in the area. A condition relating to drainage (4) is required to ensure that the matter is dealt with satisfactorily and the risk of flooding is reduced.
16. Conditions relating to materials (5) and landscaping (6) are necessary to protect the character and appearance of the area; conditions relating to the storage of waste and recycling (7) and the parking of bicycles (8) are necessary to ensure that adequate provision is made in respect of these matters, and to comply with the BLP and the London Plan 2021.
17. Paragraph 54 of the Framework advises that “planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so”. Given my findings in respect of local character as well as the close relationship between the proposed dwelling and the surrounding neighbours’ gardens, in order to protect the character and appearance of the area, and the privacy of neighbouring residents, a restriction is necessary to prevent certain extensions and alterations which could otherwise be carried out without planning permission. Restricting these specific permitted development rights is clearly justified by the site and the circumstances of the case, and I have therefore imposed a condition accordingly (9). More general restrictions on permitted development rights were suggested by the Council but no clear justification was provided, and I have therefore not imposed wider restrictions.
18. I have not imposed a separate condition relating to surface water drainage (No 10 in the Council’s suggested list) as it would duplicate part of condition 4. Similarly, I have not imposed a separate condition relating to “wash down facilities” (No 11 in the Council’s list) as it would duplicate part of condition 3. I have not imposed the suggested condition relating to wheelchair accessibility standards (No 12 in the Council’s list); there is nothing before me which indicates that the scheme is intended to provide a “wheelchair user dwelling”, and that condition is not therefore necessary.

M Cryan

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 drawing Nos. 2220-01 Rev 1 ("Existing and Proposed Block Plans", dated November 2023) and 2220-03 Rev 1 ("Proposed Plans, Elevations and Sections", dated November 2023).
- 3) No development shall take place, including any works of demolition, until a Construction and Environmental Management Plan ("CEMP") has been submitted to, and approved in writing by the local planning authority. The CEMP 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) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved CEMP shall be adhered to throughout the construction period for the development.

- 4) No development other than ground clearance or demolition work shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay (attenuate) and control the rate of surface water discharged from the site as close to greenfield runoff rates as reasonably practicable and the measures taken to prevent pollution of the receiving groundwater and/or surface water;
- ii) incorporate measures to ensure that surface water from private land does not discharge onto the highway;
- iii) include a timetable for its implementation; 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.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and

maintained thereafter in accordance with the approved management and maintenance plan.

- 5) No development above slab level shall take place until details (including samples) of all external facing materials, rooflights and window frames have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No development above slab level shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) A scaled plan showing all existing vegetation to be retained and trees and plants to be planted which shall include use of a minimum of 30% native plant species of home grown stock (where possible) and no invasive species;
 - ii) Proposed hardstanding and boundary treatment;
 - iii) A schedule detailing sizes and numbers of all proposed trees/plants
 - iv) Sufficient specification to endure successful establishment and survival of new planting.

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority.

Any new tree that dies, is removed or becomes severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details.

- 7) No development above slab level shall take place until full details of arrangements for the storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, and the approved storage arrangements permanently retained thereafter.
- 8) No development above slab level shall take place until full details of arrangements for bicycle parking (including covered storage facilities) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, and the approved storage arrangements permanently retained thereafter.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, C and E of Part 1 of Schedule 2 to the Order shall be undertaken.