



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: 07 APRIL 2025

Appeal Ref: APP/G5180/W/23/3334585

44 Westmoreland Road, Bromley BR2 0QS

- 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 Stoneridge Westmoreland Limited against the decision of the Council of the London Borough of Bromley.
- The application reference is DC/23/02636/FULL1.
- The development proposed is a part-sunken, single-storey 2-bedroom 3-person dwelling (C3 use), with associated amenity space and landscaping to the rear garden area, including the relocation of the existing cycle storage building and amendments to the communal amenity space.

Decision

1. The appeal is allowed and planning permission is granted for a part-sunken, single-storey 2-bedroom 3-person dwelling (C3 use), with associated amenity space and landscaping to the rear garden area, including the relocation of the existing cycle storage building and amendments to the communal amenity space at 44 Westmoreland Road, Bromley BR2 0QS in accordance with the terms of the application, reference DC/23/02636/FULL1, subject to the conditions in the attached schedule.

Preliminary Matters

2. On 12 December 2024 the Government published a revised National Planning Policy Framework ("the Framework"), replacing the December 2023 version extant at the time the planning application was determined. The provisions most relevant for determining this appeal were not altered significantly; as a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach. Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the December 2024 version.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on living conditions for neighbouring residents, with particular regard to the potential for noise disturbance; and
 - Whether the proposed development would demonstrate the highest standards of fire safety.

Reasons

Character and appearance

4. 44 Westmoreland Road is a large, detached building on a substantial plot with a front parking forecourt and a long rear garden, in a residential area close to Bromley town centre. It was originally a single dwelling, but a 2018 appeal decision¹ granted planning permission for its conversion to seven flats ("the 2018 permission"); that scheme has been carried out. The approved plans for the 2018 permission show the rear garden as a communal amenity area serving the seven flats, with a shared cycle store at the far end. At the time of my site visit the cycle store had not been provided; the far end of the garden was fenced off, overgrown and contained an assortment of ramshackle sheds.
5. The proposed development is the erection of a detached two-bedroom dwelling, which would be situated towards the far end of the appeal site from the existing building, close to the boundary with No 2 Durham Road. The remaining fenced-off space within the garden of No 44 would be given over to a private garden area for the new dwelling. The dwelling would be accessed via the existing path at the side of No 44. The scheme also includes the provision of a cycle store to serve the seven existing flats, replacing that proposed as part of the 2018 permission, which would be sited within the retained communal garden area.
6. The area around the appeal site contains a mix of detached and semi-detached dwellings (some of which, like No 44, have been subdivided into flats), smaller terraced buildings, and some purpose-built blocks of flats. Its immediate surroundings, however, are characterised by larger detached buildings, most of which are single residences, with deep and generous rear gardens. While there are some outbuildings nearby these are, with the exception of a very large example in the rear garden of No 2 Durham Road, of modest scale; all appear to be connected with, and ancillary to, a main dwelling rather than providing self-contained living accommodation. The subdivision of the existing large plot at No 44 to create a self-contained dwelling at the rear of the site would therefore be at odds with the prevailing pattern of development in the immediate vicinity, which is predominantly characterised by conventional frontage development and relatively open rear gardens. In this respect, the proposed development would cause some harm to the established character of the area.
7. The proposed dwelling would be set partly below the existing ground level, with a maximum height above ground of around 2.5m. It would be on a footprint approximately 7.2m by 10.7m, and so would be within the parameters of what would be likely to be acceptable for a permitted development outbuilding for a single dwellinghouse. It would be finished in vertical timber cladding, and have a flat sedum roof, giving it a contemporary appearance. The Council acknowledged that its appearance in these respects would not be "materially out of character within this garden environment". While the Council expressed concern about the orientation of the proposed dwelling being at odds with the arrangement of neighbouring dwellings, it would be oriented to match the main building at No 44. In all these respects, I consider that the appearance of the development would be acceptable.

¹ PINS Ref: APP/G5180/W/18/3194021 – though the reference is given only as APP/G5180/W/3194021 on the appeal decision.

8. Nevertheless, for the reasons I have set out in paragraph 6, 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 D4 of the London Plan 2021. Together (and among other things) these policies seek to ensure that all development, including backland and garden development, is well-designed and respects local character, including in respect of density and layout.
9. The Council's appeal statement included a paragraph referring to "the impacts of an extended garage building on [...] the Shortlands Road Conservation Area". Not only does this misdescribe the proposed development, the appeal site is not within any conservation area; I have therefore disregarded that comment as being a drafting error.

Living conditions

10. The proposed development would introduce an additional household to a site which is already host to seven self-contained flats. It would intensify the use of the site beyond that allowed by the 2018 permission. The Council's concern is that this would increase noise and other disturbance for occupiers of the neighbouring dwellings at Nos 42 and 46 Westmoreland Road, and No 2 Durham Road.
11. The proposed dwelling would have a sunken patio area which would be likely to be the focus of any socialising; this would be separate, and contained, from the neighbouring properties. Access to the dwelling would be by the existing path at the side of No 44, and bin storage would be at the front of the main building. While there would be up to three more residents on the site, the layout means that in my view it is unlikely that there would be a significant increase in noise disturbance for residents of the dwellings on either side of the appeal site as a result of socialising in the garden area, normal comings and goings, or any other factor. The dwelling would be sited between the boundary with No 2 Durham Road and the retained communal garden at No 44, and would act as a barrier which may perhaps even lead to a reduction in noise disturbance in respect of that property (compared to the use of the entirety of the rear part of the appeal site as an amenity area for the existing flats at No 44).
12. The quantity of amenity space retained for the seven flats would comfortably exceed that required by the development plan, so there would be no unacceptable loss of space for the existing residents of No 44. The standard of accommodation and private amenity space would be acceptable and that there would be no unacceptable loss of light, outlook, or privacy for neighbours.
13. I conclude that the proposed development would not cause unacceptable harm to living conditions for neighbouring residents. There would therefore be no conflict on this matter with Policy 37 of the BLP which, among other things, requires that new development should Respect the amenity of occupiers of neighbouring buildings.

Fire safety

14. Policy DM12 of the London Plan 2021 requires all development proposals to achieve the highest standards of fire safety. Although the original planning

application did not include one, a Planning Fire Statement (“PFS”) was submitted during the appeal.

15. My attention was directed towards the Building Regulations on this matter². Requirement B5 addresses access and facilities for the fire service. It says that a “building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life”, and that “reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building”. Further guidance is provided at paragraph 13.1, which advises that access for a pumping appliance should be provided to within 45m of all points inside a dwellinghouse, while it was noted in the PFS that the distance between the likely parking position of a fire appliance attending an incident at the appeal site and the proposed dwelling would be around 60m.
16. While the access distance to the proposed dwelling would be greater than that recommended in the Building Regulations, the access route would be along a straight and level pathway at the side of No 44; it is likely that, even with the distance involved, it would be straightforward for firefighters to access the dwelling. Nevertheless, the appellant suggested that, in the light of the distance involved, a condition could be imposed requiring the installation of a suitable sprinkler system. The proposed dwelling would be small in size, of a simple design, and well-separated from other habitable buildings. In these circumstances, it seems to me that such a condition would be a reasonable and appropriate means of securing an additional element of fire safety which would mitigate any risk, however limited, which might arise because of the dwelling’s distance from the vehicular access point on Westmoreland Road.
17. In determining this appeal it is of course not my role to duplicate other regulatory regimes, and ultimately the question of whether a development would comply with the Building Regulations in respect of Fire Safety is not a matter for me to answer here. However, I am satisfied that a condition relating to a sprinkler system would, in planning terms, ensure that the development would achieve the highest standards of fire safety; it would therefore comply with Policy D12 of the London Plan 2021, the principle aim of which I have set out above.

Other Matters

18. The Council referred to the proposed development of a gym room on the appeal site, for which it refused planning permission in November 2022³. I note comments made about the impact of such a development, and its intensive use, on the character of the area. I note those comments; however, the benefits arising from a gym would differ from those in this case, to which I turn in a moment, so the overall balance would not necessarily be the same.
19. My attention was also drawn to a relatively recent appeal relating to the proposed construction of two dwellings in the rear garden of Baran House at 18 Bromley Common⁴. In that case, it is evident from the appeal decision and aerial photographs provided to me that the two new dwellings at Baran House would have intruded beyond a row of buildings on a reasonably consistent line, into large gardens abutting an open school field and park within the Green Belt

² The Building Regulations 2010 – Fire Safety: Approved Document B, Volume 1: Dwellings

³ LPA Ref: 22/03281/FULL1

⁴ PINS Ref: APP/G5180/W/22/3307258

beyond. The effect of the two schemes, and any harm which would be caused to the character or appearance of their local areas, is not therefore directly comparable.

20. In its appeal statement the Council indicated that it considered the appellant had not complied with all the conditions imposed on the 2018 permission. That is not a matter on which it is appropriate for me to pronounce in determining this appeal, though it is of course open to the Council to take enforcement action if it considers that a reasonable and necessary step.
21. Finally, I have had regard to comments made by interested parties during the planning application consultation and during the appeal. To the extent that the points raised are material, they have been addressed in my consideration of the main issues above. I note comments about the planning history of the appeal site, and the suggestion that the appellant has repeatedly attempted to secure permission for increased development. While this is no doubt irritating or even upsetting for some local people, it is nevertheless permitted by the system; my role is to determine this appeal on the basis of the planning merits and impacts of the specific proposal before me.

Planning Balance and Conclusion

22. The proposed development would not cause unacceptable harm to neighbours' living conditions and would be acceptable in respect of fire safety. 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.
23. 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.
24. 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 be somewhat at odds with local character, and to this extent therefore it would conflict with the aims of the Framework. However, the harm that this would cause would be limited in what is, after all, a varied residential area close to a large London town centre. Taking all of this together, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits.
25. 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 the character of the area, 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

26. 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. In addition to the standard time limit condition (1) I have specified the approved plans and other documents so as to provide certainty (2).
27. Conditions relating to the protection of trees (3) and the submission and approval of landscaping details (4) are necessary to protect the character and appearance of the area, and to comply with Policies 37, 73 and 74 of the BLP. A condition relating to drainage (5) is necessary to reduce the risk of flooding, and to comply with Policies 115, 116 and 117 of the BLP and Policy 5.13 of the London Plan 2021, while a condition requiring the submission and approval of a Construction and Environmental Management Plan (6) is necessary to protect pedestrian, cyclist and highway safety, to protect living conditions and the environment in the vicinity of the site, and to comply with Policies 30, 31, 32 and 119 of the BLP. In order to ensure that the protection afforded is in place from the start of the construction phase, it is appropriate and necessary that Conditions 3 to 6 are pre-commencement conditions.
28. A condition relating to materials (7) is necessary to protect the character and appearance of the area, and to comply with Policies 37 and 41 of the BLP. A condition relating to the provision of adequate cycle parking facilities (8) is necessary to encourage the use of sustainable means of transport and to reduce reliance on the private car, and to comply with Policy T5 of the London Plan 2021. A condition to prevent occupiers of the proposed dwelling from holding on-street parking permits for any local Controlled Parking Zone (9) is necessary in the interests of highway safety and to manage the demand for such provision, in line with Policy 30 of the BLP. A condition requiring the submission and approval of arrangements for the storage of refuse and recycling (10) is necessary to protect living conditions for neighbouring residents, and to comply with Policy 37 of the BLP and Policy T7 of the London Plan 2021.
29. A condition restricting the use of the flat roof of the proposed dwelling (11) is necessary to protect the privacy of the occupiers of neighbouring dwellings, and to comply with Policy 37 of the BLP. Finally, a condition requiring the installation of a suitable sprinkler system (12) is necessary for the reasons I have set out in paragraph 16 above, and to comply with Policy 12 of the London Plan 2021.

M Cryan

Inspector

Schedule 1 – 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 not be carried out otherwise than in complete accordance with the approved plans and documents set out in Schedule 2, unless otherwise agreed in writing by the Local Planning Authority.
- 3) Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan ("TPP") and an arboricultural method statement ("AMS") shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TPP and AMS shall include:

- i) Location and installation of services/utilities/drainage.
- ii) Methods of demolition within the root protection area ("RPA" as defined in BS 5837: 2012) of the retained trees.
- iii) Details of construction within the RPA or that may impact on the retained trees.
- iv) A full specification for the installation of boundary treatment works.
- v) A full specification for the construction of any roads, parking areas and driveways, including details of the no-dig specification and extent of the areas of the roads, parking areas and driveways to be constructed using a no-dig specification. Details shall include relevant sections through them.
- vi) Detailed levels and cross-sections to show that the raised levels of surfacing, where the installation of no-dig surfacing within Root Protection Areas is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses.
- vii) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- viii) A specification for scaffolding and ground protection within tree protection zones.
- ix) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- x) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires.
- xi) Boundary treatments within the RPA.
- xii) Methodology and detailed assessment of root pruning.

xiii) Arboricultural supervision and inspection by a suitably qualified tree specialist.

xiv) Reporting of inspection and supervision.

xv) Methods to improve the rooting environment for retained and proposed trees and landscaping.

xvi) Veteran and ancient tree protection and management.

The development thereafter shall be implemented in strict accordance with the approved details.

- 4) a) Prior to commencement of above ground works details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. 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; and
 - iv) Sufficient specification to endure successful establishment and survival of new planting.
- b) 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.
- c) Any new trees that die, are removed or become 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
- 5) a) Prior to commencement of the development hereby approved (excluding any ground clearance or demolition) schemes for the provision of surface water and foul water drainage shall be submitted and approved in writing by the local planning authority.
- b) Before the details required to satisfy Part (a) are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (SuDS) to ground, watercourse or sewer in accordance with drainage hierarchy contained within the London Plan Policy 5.13 and the advice contained within the National SuDS Standards.
- c) Where a sustainable drainage scheme is to be provided, the submitted details shall 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 (21/s/ha) as reasonably practicable and the measures taken to prevent pollution of the receiving groundwater and/or surface water

d) The drainage scheme approved under Parts a, b and c shall be implemented in full prior to first occupation of the development hereby approved,

- 6) No development shall commence on site (including demolition) until such time as a Construction and Environmental Management Plan has been submitted to and approved in writing by the local planning authority. As a minimum the plan shall cover:

- (a) Dust mitigation and management measures.
- (b) The location and operation of plant and wheel washing facilities
- (c) Measure to reduce demolition and construction noise
- (d) Details of construction traffic movements including cumulative impacts which shall demonstrate the following:
 - (i) Rationalise travel and traffic routes to and from the site as well as within the site.
 - (ii) Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction related activity.
 - (iii) Measures to deal with safe pedestrian movement.
 - (iv) Full contact details of the site and project manager responsible for day-to-day management of the works.
 - (v) Parking for operatives during construction period.
 - (vi) A swept path drawings for any tight manoeuvres on vehicle routes to and from the site including proposed access and egress arrangements at the site boundary.
- (e) Hours of operation.

The development shall be undertaken in full accordance with the details approved under Parts a-e.

- 7) Prior to commencement of above ground works, details (including samples) of the materials to be used for the external surfaces of the building including the proposed green roofing shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details.

- 8) Details of arrangements for bicycle parking (including covered storage facilities where appropriate) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works.

The approved provision shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.

- 9) Before the development hereby permitted is occupied arrangements shall be agreed in writing with the Local Planning Authority and be put in place

to ensure that, with the exception of disabled persons, no resident of the development shall obtain a resident's parking permit within any Controlled Parking Zone which may be in force in the vicinity of the site at any time.

- 10) Details of arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary) for both houses shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works.

The approved arrangements shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.

- 11) The flat roof area of the dwelling hereby permitted shall not be used as a balcony or sitting out area, and there shall be no access to the roof area other than for purposes of maintenance.
- 12) Prior to the first occupation of the dwelling hereby permitted it shall be fitted with a domestic Category 1 sprinkler or water mist system in accordance with BS 9251:2021 (or any successor standard), fed by the mains water system. The system shall be retained and maintained in an operational condition for the lifetime of the development.

Schedule 2 – Approved plans and documents

- Site Location Plan (Groundsure Plan dated 26 July 2022)
- Planning Statement (Lichfields, July 2023)
- Existing Block Plan – 2233.3/A101 (dated 28 April 2023)
- Existing Site Plan – 2233.3/A102 (dated 28 April 2023)
- Existing Cycle Store Plan – 2233.3/A103 (dated 28 April 2023)
- Existing Bin Store Plan – 2233.3/A104 (dated 28 April 2023)
- Proposed Block Plan – 2233.3/A201 (dated 28 April 2023)
- Proposed Site Plan – 2233.3/A202 (dated 5 May 2023)
- Proposed Floor and Roof Plan – 2233.3/A203 (dated 5 May 2023)
- Proposed Elevations – 2233.3/A204 (dated 5 May 2023)
- 3D Model Aerial View 1
- 3D Model Aerial View 2
- Exterior View CGI 1
- Exterior View CGI 2
- Energy and Sustainability Statement (Flint Energy dated 14 June 2023)
- Part M Design Statement (Mulhern Iremonger)
- Design and Access Statement (Mulhern Iremonger)
- Tree Survey – PB/5837-23/03.30 (dated 12 April 2023)
- Arboricultural Impact Assessment – PB/AIA-23/03.30 (dated 12 April 2023)
- Covering Letter (Lichfields, dated 5 July 2023)
- Planning Fire Statement (Part B Ltd., Doc. Ref. 44W-PTB-ZZ-GF-RP-FE-6000, dated 5 December 2023)