



Appeal Decision

Site visit made on 2 April 2025

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th April 2025

Appeal Ref: APP/D5120/W/24/3356017

Shelley House, London Road, Crayford, Bexley, Dartford DA1 4BS

- 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 Jack Frankel of Nirlake Investments against the decision of the Council of the London Borough of Bexley.
 - The application Ref is 24/00028/FUL.
 - The development proposed is erection of a three-storey purpose-built block of flats comprising three self-contained units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed plans were amended during the application and the application was decided on this amended scheme. The appellant has requested that both the amended and initially submitted scheme are considered in this appeal. However, this would change the scheme as refused and may alter a number of the reasons for refusal given by the Council. The Planning Inspectorate Procedural Guide: Planning Appeals – England notes that it is important that what is considered by the Inspector is essentially the same scheme that was considered by the Council. For these reasons, I have assessed the appeal on the same scheme to which the Council made its decision.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to outlook and light;
 - whether the proposed development would provide an acceptable private amenity space, with particular regard to overshadowing and overlooking; and,
 - whether the proposed development could be constructed and serviced, with particular regard to highway safety, traffic flow and the living conditions of neighbouring occupants.

Reasons

Character and appearance

4. The siting of the proposed building would be within the grassed amenity area which is surrounded by the three-storey built forms of Keats House and Shelly House. Keats House is of a much greater size than that of Shelly House. It is a large three storey 'L' shaped building which is predominantly set back from London Road and follows the shape of the site boundary. Shelly House is of a more usual shape. It is smaller in size than Keats House and has a closer relationship with London Road. Nevertheless, the grassed amenity area offers a sense of space between the two buildings. This facilitates a verdant and leafy character when viewed in isolation of the two properties.
5. In contrast, the neighbouring properties in the immediate area of London Road do not share this character. This is due to the limited grassed areas afforded to these properties, their closer proximity to the highway and their use of boundary treatments. As such, the immediate surroundings of London Road help to reinforce the verdant character and the importance of the open space found at Keats House and Shelly House.
6. The proposed development would be sited in a similar position and has had regard to Shelly House. As such, there are elements of the proposed design which must be commended. It would three stories tall, would host a gabled roof form, create a similar front porch arrangement and would generally host windows and openings of similar proportions. The Council do comment that the width of the building is narrower than Shelly House and therefore, it would sit awkwardly in its setting. Due to the variation of the built grain within the immediate environment and the design elements which would be similar to Shelly House, I am not of the view that this smaller width itself would appear harmful in this context.
7. However, I now turn to the positioning of the building. The building would increase the proximity of a three-storey built form to Keats House. The presence of a three-storey building in this space would reduce the sense of openness and verdant character of the appeal site. As such, the combination of these elements would create an awkward and confined configuration when viewed from London Road and from within the appeal site.
8. A comparison to a nearby development at the Duke of Wellington Public House is cited. There are different site characteristics in this example to that found in the appeal before me. Whilst a building is located to the side of this proposal, this has a contrasting orientation which predominantly faces onto and has a close relationship with the highway. This is different to that of Keats House and the appeal site. An analysis of the history of the appeal site has also been provided. This analysis shows that a building was previously sited in a similar position to the footprint of the proposal. However, this evidence is limited. It does not inform me of the characteristics of this built form such as its height or appearance which may have been smaller than that proposed in this appeal. As such, I ascribe limited weight to this matter in my decision on this main issue.
9. To conclude, the proposal would conflict with Policies DP2, DP11 and SP5 of the Bexley Local Plan 2023 (LP) and Policies D1, D3 and D5 of the London Plan 2021 (the London Plan). These policies seek for development to ensure its layout is

complimentary to the street scene, considers the relationships between buildings and spaces with regard to layout, scale and appearance, amongst other things.

The living conditions of future occupants

10. Obscured glazing would be provided in the habitable space of the kitchen and living space to units 2 and 3 of the proposal. This is a large area which would provide multiple uses. It would be an area of the property which would be frequently used by its future occupants for relaxation and activities such as cooking and dining. Owing to the primacy of this kitchen space and the likely frequency of its use, I am not of the view that this glazed element is a secondary window as described by the appellant.
11. A private balcony would be provided to each unit. Its doors would not be obscurely glazed and therefore this would provide an outlook towards London Road. However, due to position of the kitchen areas away from this outlook and the lack of direct visibility of this outlook from the kitchen area, the effect of this outlook would be limited to certain positions within the wider living space area. As such, the absence of an appropriate outlook would create a sense of confinement and enclosure to the kitchen spaces of these units.
12. Despite this restricted outlook to these spaces, it does not immediately follow that they would be void of an appropriate amount of natural light. The windows proposed to the kitchen and living space would be notably wide. Their separation from other built forms would be at such a distance which would therefore not unacceptably restrict the light which would enter into these windows. As such, the windows proposed would provide a strong amount of natural light to these units, despite the provision of obscured glass.
13. To conclude, the proposal would conflict with Policies DP2 and DP11 of the LP, with specific regard to outlook. These policies require development to be well designed with a high standard of amenity with appropriate levels of outlook, amongst other things. Policy D12 of the London Plan is quoted in the decision notice on this main issue. However, this policy is concerned with fire safety and therefore, would not appear directly applicable to this main issue.

Private amenity space

14. The development would provide a garden to the rear of the ground floor unit. This garden would be a large and rectangular space. The position of this garden would be to the north of the proposed building. As such, owing to its limited depth, the three-storey height of the proposal and its position, this garden space would experience overshadowing for significant periods of the day.
15. In addition, the rear garden space would be visible from the many windows of Keats House. The appellant suggests that adequate separation distances from Keats House to this garden space would be provided. These are highlighted on the proposed plans. However, these distances do not cover each possible window position. As such, the proposed garden would be overlooked, or perceived to be overlooked, due to the significant quantity of windows in the western flank of Keats House in particular. Whilst the provision of a tall, landscaped boundary treatment may assist in the reduction in the perception of overlooking, or indeed overlooking itself, it would not alleviate the harm in relation to overshadowing.

16. An example of a development with a north facing private amenity space at 8 London Road is provided. The information before me is limited and therefore I cannot ascertain the reasoning behind this decision. Nevertheless, I do note that from the evidence provided, that certain provisions of private balcony space are indeed orientated northwards.
17. I am cognisant that garden spaces or private balconies in urban environments are likely suffer from an element of overlooking and subject to a degree of overshadowing. However, in comparison to this example, the specific orientation and height of the proposed building and the location of the garden at the ground floor in this appeal would ensure that the proposed garden would be overshadowed for a substantial period of the day. Furthermore, the significant number of possible overlooking positions from Keats House would in my view, be beyond that which is to be reasonably expected in most residential situations. Therefore, whilst in physical space terms the space would be large and of a regular shape, it would be able to be overlooked and overshadowed. This would not provide a private amenity space that is of a high quality or functional.
18. To conclude, the proposal would conflict with Policy DP2 and DP11 of the LP in this regard. Policies DP2 and DP11 require proposals to provide well-designed housing with a sufficient and useable on-site external amenity space.

Construction management

19. The appeal site is located next to London Road. London Road is part of the Strategic Road Network and therefore provides an important route in this area. A service road is located immediately east to the appeal site. This service road connects London Road to several garages to the rear of Shelly House. Pedestrian access can also be gained from this service road to Bexley Lane from London Road. Waiting restrictions also apply to London Road at certain times. As such, there are constraints to the site with regards to vehicular access.
20. It follows that the Council requested a Construction Management Plan (CMP) or Construction Logistics Plan (CLP). The Council do note that the submission of such documents is not typically required at the planning stage for a development of this limited size. However, due to the constrained nature of the site and its limited access, these were requested by the Council during the application stage.
21. The appellant has suggested the use of a pre-commencement planning condition would allow for construction management and servicing concerns be addressed. Paragraph 56 of the National Planning Policy Framework (the Framework) notes that unacceptable development could be made acceptable through the use of conditions. Subject to a suitably worded planning condition, the management of the construction phase, including its logistics, could be employed through the submission of a CMP and CLP. This condition could require the submission of details which relate to the proposed construction methods, management of vehicle movements and the deliveries of materials, the means of minimising construction nuisances such as dust and noise, amongst other things. Whilst the site is constrained, the submission of such details may present possible acceptable solutions which alleviate highway safety, traffic flow and living condition concerns.
22. As such, subject to an appropriately worded planning condition, the proposal would not conflict with Policies SP10 and DP24 of the LP. These policies require development proposals to not have a significant cumulative negative impact on the

operation or efficiency of the local road network or the unsuitable use of any road that is prejudicial to its function in the Road Hierarchy, amongst other things.

Planning Balance and Conclusion

23. Section 38(6) of the Planning and Compulsory Purchase Act 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework indicates that a decision should be taken in accordance with the development plan.
24. I acknowledge that the proposed development would provide an additional three flatted units to the supply of housing, within a close distance to the centre of Bexley. I ascribe moderate weight to this matter.
25. The proposal would also provide improvements to the amenity space within the appeal site which would benefit the future occupants of the development and the current occupants of Keats House and Shelly House. The proposal would also provide local economic benefits during the construction period. The future occupiers would also provide economic benefits to the local area once the development would be complete through their use of local shops and services. These matters are limited, yet positive benefits of the proposal.
26. However, in my overall consideration of the scheme, these benefits do not outweigh the harm I have found above in relation to character and appearance and to the living conditions of future occupants of the proposed building. The scheme would conflict with the Development Plan when taken as a whole. There are no material considerations that indicate that decision should be made other than in accordance with the Development Plan.
27. Therefore, for the reasons given above the appeal should be dismissed.

J Smith

INSPECTOR