



Appeal Decision

Site visit made on 7 May 2025

by **J Heppell BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th of June 2025

Appeal Ref: APP/G5180/W/24/3357689

Woodhayes, 76A The Avenue, Beckenham, Bromley BR3 3ES

- 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 J Miller of Devonshire Developments Limited against the decision of the Council of the London Borough of Bromley.
 - The application Ref is 24/00513/FULL1.
 - The development proposed is demolition of existing houses and the construction of 7 homes together with the construction of a new access road, 7 car parking spaces, bin and cycle stores and new hard and soft landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing houses and the construction of 7 homes together with the construction of a new access road, 7 car parking spaces, bin and cycle stores and new hard and soft landscaping at 76A The Avenue, Beckenham, Bromley BR3 3ES in accordance with the terms of the application, Ref 24/00513/FULL1, subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr J Miller of Devonshire Developments Limited against the Council of the London Borough of Bromley. This is the subject of a separate decision.

Preliminary Matters

3. Since determining the application the subject of this appeal, the Council has granted planning permission for the construction of six houses on the appeal site¹. I have noted and had regard to the details of the approved scheme.

Main Issue

4. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of adjacent residents with particular reference to noise and outlook relating to 76C The Avenue.

¹ LPA reference DC/24/03645/FULL1

Reasons

Character and appearance

5. The Avenue is a residential road comprising a mix of houses and flats within a sylvan setting. The appeal site contains two detached dwellings on sizeable plots sloping down to a railway line at the rear. The proposal is to replace the two dwellings with a terrace of three houses, with an access road constructed to the side leading to a second terrace of four houses at the rear.
6. The appeal site forms part of a row of four houses which have three and four storey flatted developments on either side and opposite. The proposed replacement of the two houses with a terrace of three storey houses, including accommodation within the roof, represents a continuing evolution of the character of the area which, like the Council, I find unobjectionable.
7. Planning permission is extant for a terrace of three two storey houses, including accommodation within the roof, at the rear of the appeal site. The Council argues that, although the granting of permission for dwellings to the rear of the appeal site means that the principle of tandem development has been accepted, this does not automatically mean that any form of tandem development is acceptable, and it maintains that there are distinct and important differences between the extant permission for a terrace of three houses at the rear, and the proposal for a terrace of four houses. However, there are significant similarities between the two schemes, and their impact on the character and appearance of the area would therefore be comparable. Consequently, I give considerable weight to the extant planning permission.
8. The Council considers that the proposed tandem layout would be an unsatisfactory form of backland development which could set a precedent for backland development elsewhere. The appellant has however highlighted examples of backland development nearby, indicating that a precedent for backland development already exists. The adjacent blocks of flats moreover possess garages and parking courts at the rear, so it is not the case that the land behind these blocks of flats is open and undeveloped.
9. I conclude, therefore, that the proposal would represent a continuing evolution of the area's character and appearance which would not be such a significant departure from it as to cause harm to it. It would thus accord with policies D3 and H2 of the London Plan March 2021 (LP) and policies 3, 4 and 37 of the Local Development Framework Local Plan January 2019 (LDF).
10. Together these policies seek to optimise site capacity through a design-led approach by pro-actively supporting well-designed new homes on small sites, with specific criteria applied to backland development which include impact upon context and landscaping. Although not relied upon by the Council, Policy H2 is relevant because it relates specifically to new homes on small sites, and I have had regard to it in reaching my decision.

Living conditions

11. The proposal would introduce an access road beside the adjacent dwelling at 76C The Avenue and houses at the rear which would face towards No 76C. The

Council considers that this juxtaposition would cause noise and disturbance to the occupiers of No 76C and adversely affect their outlook.

12. Whilst the proposal would result in an increase in activity next to the boundary with No 76C, the proposed houses would have only one parking space each, which would limit the number of vehicular using the access road. Furthermore, vehicles using the access road would be travelling at slow speeds. As the principal rooms of No 76C face to the front and rear, and there are no side windows facing the proposed access road, noise resulting from the use of the access road would be unlikely to cause harm to the living conditions of the occupiers of the property. Moreover, there is an extant permission for an access road to serve three houses at the rear, representing only a marginally lower level of activity.
13. Regarding the outlook from No 76C, the appellant's plans show, and the Council's Delegated Decision report confirms, that the separation distance between the existing dwelling and the nearest proposed backland dwelling would be approximately 33.4 metres, and that an intervening tree in the garden of No 76C would be retained. The proposed houses would at a lower level than No 76C. Any shadowing caused by proposed terrace of houses would be localised and would not affect No 76C itself. Taking all these factors into account, the proposal would not harm the outlook of the occupiers of No 76C.
14. I conclude that the living conditions of existing occupiers would not be harmed by the proposal, which would therefore accord with Policy D3 of the LP and policies 3, 4 and 37 of the LDF. Together these policies seek good design which delivers an appropriate outlook and avoids noise and disturbance to occupiers.

Other Matters

15. The Council has acknowledged that it cannot demonstrate a five year supply of deliverable housing sites or comply with the Housing Delivery Test. However, as the proposal accords with the development plan as a whole and there are no material considerations to the contrary, there is no need to consider Paragraph 11 of the National Planning Policy Framework.
16. The Council has argued that the development would not optimise the use of the site given that the yield would be lower than an extant permission for flats². However, as I have determined that the proposal for houses is acceptable in all other respects, and since there is an extant permission for six houses, the provision of family houses as opposed to flats does not count against the proposal.
17. Interested parties have queried the amount of parking proposed. The site has a Public Transport Access Level (PTAL) rating of 1b which is considered poor, where the maximum parking requirement is 1.5 spaces per dwelling. The scheme proposes one parking space per dwelling on the basis that future households will be offered two years free car club membership. On this basis, the proposal for one parking space per dwelling is sufficient to meet the requirements of future occupiers, as confirmed by the Highways Officer.
18. Interested parties have also queried the impact of additional traffic on the unmade section of The Avenue. The section of The Avenue where the appeal site is located is unadopted and its maintenance is therefore a private matter.

² Appeal reference APP/G5180/W/22/3300174

Conditions

19. The Council has recommended that 18 planning conditions be imposed in the event that the appeal is allowed. The appellant has not objected to any of the proposed conditions. In assessing the need for the conditions, I have had regard to the policy requirements contained in the development plan and assessed the conditions in relation to the six tests set out in the Framework.
20. I have not attached the Council's suggested condition concerning road surface repairs to The Avenue since, as noted in the Council's Delegated Decision report, such a condition would be unreasonable in respect of an unadopted road. The appellant's site plan offered a condition requiring that each dwelling have an electric vehicle charging point, but as such matters are controlled by the Building Regulations, I have not imposed this condition.
21. The Council's Delegated Decision report indicates that the provision of one car parking space per dwelling is dependent on a planning condition ensuring that the first residents of the houses benefit from a car club credit. The appellant's Transport Statement has offered such a condition, and I have therefore imposed a condition to this effect.
22. In the interests of certainty, I have imposed a time limit condition (No 1) and a condition listing the approved plans (No 2).
23. To ensure that the development is carried out without adverse impacts on neighbours' amenities or highway safety, a Construction and Environmental Management Plan is required to be approved before development commences (No 3).
24. To prevent flooding, surface water must be suitably disposed of in accordance with an approved surface water drainage strategy (No 4).
25. Given the sloping nature of the site, I have imposed a condition requiring the approval of ground levels (No 5).
26. To ensure that trees are protected, the measures set out in the submitted tree report should be adhered to (No 6).
27. In order to enhance biodiversity, swift nest bricks should be installed in the development (No 7).
28. To minimise the use of future occupants' own vehicles, car club membership should be offered to the first occupiers of the houses (No 8).
29. To encourage alternatives modes of transport, adequate provision must be made for cycle storage (No 9).
30. Adequate provision must be made for bin storage in accordance with the Council's requirements (No 10).
31. To ensure that the character and appearance of the area is preserved, conditions are needed to control external materials (No 11) and landscaping (No 12).
32. It is necessary that the dwellings are designed to be accessible and adaptable (No 13).

- 33. To ensure suitable living conditions for future residents, appropriate acoustic measures should be incorporated in the dwellings (No 14).
- 34. In the interests of air quality, emissions from gas boilers should be controlled (No 15) and any future additional parking spaces fully justified (No 16).
- 35. Because the proposed houses are large in relation to their rear gardens, it is appropriate to control future occupiers' ability to enlarge their properties or construct outbuildings which would reduce the size of their gardens (No 17). It is not necessary to restrict future occupiers' ability to alter or extend their roofs.
- 36. To prevent potential overlooking, side facing windows should be obscure glazed (No 18).

Conclusion

- 37. For the above reasons, the proposal accords with the development plan, when read as a whole. Material considerations do not indicate that a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be allowed.

J Heppell

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of 3 years, beginning with the date of this decision notice.
- 2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the plans approved under this planning permission unless previously agreed in writing by the Local Planning Authority: PSD-Jamcap/AvenueRd-01A, 06-1007-301P02, PSD-Jamcap/AvenueRd-02, PSD-Jamcap/AvenueRd-03, PSD-Jamcap/AvenueRd-04, PSD-Jamcap/AvenueRd-05, PSD-Jamcap/AvenueRd-06 and PSD-Jamcap/AvenueRd-07.
- 3) 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.
 - (f) Other site specific Highways and Environmental Protection issues as requested on a case by case basis.The development shall be undertaken in full accordance with the details approved under Parts a-f.
- 4)
 - (a) Prior to commencement of the development hereby approved (excluding any ground clearance or demolition) a scheme for the provision of surface water drainage shall be submitted to 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 SI13 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.

- 5) Prior to commencement of development (excluding demolition) details of the proposed slab levels of the building(s) and the existing site levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the approved levels.
- 6) Prior to the commencement of the development hereby approved (including the arrival of machinery and materials and all preparatory work), tree protection measures in accordance with the approved tree protection plan contained in the Arboricultural Impact Assessment and Method Statement (report reference: TCTC-18648-A (May 2024)) shall be installed. Such measures shall not be moved or removed, but shall be retained in situ until completion of the development and all materials and machinery have been removed from the site, unless otherwise agreed in writing by the Local Planning Authority.
- 7) Details regarding the installation of seven integral swift nest bricks (i.e. one swift brick per dwelling) shall be submitted prior to the commencement of above ground works. These shall be fully installed prior to first occupation of the development and shall be retained permanently thereafter.
- 8) Prior to occupation of the development, occupiers shall be offered two years free membership to a car club operator of choice and 20 hours free drive time together with information about the car club.
- 9) (a) 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
(b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
- 10)(a) Details of arrangements for storage of refuse and recyclable materials (including means of enclosure for the area concerned where necessary) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works.
(b) The arrangements as approved under part (a) shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
- 11)(a) Prior to commencement of above ground works, details (including samples) of the materials to be used for the external surfaces of the building which shall include roof cladding, wall facing materials and cladding, window glass, door and window frames, decorative features, rainwater goods and paving where appropriate shall be submitted to and approved in writing by the Local Planning Authority.
(b) The development shall be carried out in accordance with the approved details.

- 12)i) 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:
1. 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
 2. Proposed hardstanding and boundary treatment
 3. A schedule detailing sizes and numbers of all proposed trees/plants
 4. Sufficient specification to endure successful establishment and survival of new planting.
- (ii) 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.
- (iii) 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.
- 13) The development hereby permitted shall be built in accordance with the criteria set out in Building Regulations M4(2) 'accessible and adaptable dwellings' and shall be retained permanently thereafter.
- 14) An acoustic assessment shall be submitted to the Local Planning Authority for approval in writing prior to the commencement of the development. A scheme of mitigation, as necessary in light of the results of the assessment, covering façade, glazing and ventilation specifications shall achieve levels not exceeding 30dB LAeq (night) and 45dB L_{Amax} (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with windows shut and other means of ventilation provided. External amenity areas shall be designed to meet the requirements of BS8233:2014 and where necessary the evaluation of human exposure to vibration within the building shall not exceed the Vibration dose values criteria 'Low probability of adverse comment' as defined BS6472. Once approved the mitigation shall be installed fully in accordance with the approved scheme and permanently maintained thereafter.
- 15) In order to minimise the impact of the development on local air quality any gas boilers must meet a dry NO_x emission rate of <40mg/kWh.
- 16) The proposed development is situated in an Air Quality Management Area. The applicant should therefore demonstrate that any additional parking provision meets the maximum parking standards set out in policies T6 and T6.1 to T6.5 of the London Plan. For land uses where maximum parking standards are not defined, or if the criteria above are not met, a full assessment should be undertaken in accordance with London Plan Guidance 'Air Quality Neutral'.

- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no building, structure, extension, enlargement or alteration permitted by Class A or E of Part 1 of Schedule 2 of the 2015 Order (as amended), shall be erected or made within the curtilages of the dwellings hereby permitted without the prior approval in writing of the Local Planning Authority.
- 18) Before the development hereby permitted is first occupied the proposed windows within the flank elevations of all dwellings shall be obscure glazed to a minimum of Pilkington privacy Level 3 and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and the windows shall subsequently be permanently retained as such.

End of schedule