



Appeal Decision

Site visit made on 26 March 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2025

Appeal Ref: APP/G5180/W/24/3353854

44 Shepperton Road, Petts Wood, Orpington, Bromley BR5 1DN

- 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 Peter O'Sullivan of Alpha Estates (Petts Wood) Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref is 24/01559/FULL1.
 - The development proposed is demolition of bungalow and construction of two three bed dwellings with three car parking spaces.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application a revised National Planning Policy Framework (The Framework) has been published. The main parties have been given the opportunity to comment on any implications for the appeal.
3. An Arboricultural Survey by Arbtech (5 September 2024) has been supplied in response to one of the reasons for refusal. Though this was not provided in the planning application, I am content to consider it within my determination. It relates exclusively to whether the proposed development would likely harm a nearby protected tree, a matter over which the Council felt insufficient information had been provided, rather than one over which it had formed a view. I do not consider it to make a substantial difference or fundamental change to the proposal, therefore. The Council and the third-party owners of the tree have both provided a response to the survey, and so would not evidently suffer unlawful procedural unfairness.
4. My attention has been drawn to previous planning applications at the site. I have assessed the appeal proposal on its merits, with previous decisions only being material in my determination where stated.
5. In its statement of case the Council refers to the overbearing impact of the proposed development on neighbouring occupiers. This is not, however, reflected in a reason for refusal. I have therefore determined the appeal on the basis that the Council do not consider it to comprise one.
6. Unacceptable overlooking of neighbouring rear gardens is cited as a reason for refusal. In its statement of case, the Council specifies the properties it considers would be affected. 71 Crescent Drive (No 71) is not one of them. Even so, I have received submissions from the occupiers of No 71 in which the issue of privacy is

raised. The appellant has responded in detail. Overall, I consider it within the scope of my determination to assess the effect on privacy at No 71.

Main Issues

7. The main issues are the effect of the proposed development on:
- The character and appearance of the area;
 - The adjacent protected oak tree at No 71; and
 - The living conditions of neighbouring occupiers at No 71, with particular regard to privacy.

Reasons

Character and appearance

8. The appeal site is in a largely residential, suburban neighbourhood. Within this, in an area around the junction of Woodhurst Avenue and Nightingale Road, extending east and west to the two arms of Crescent Drive, a distinct, formal, and planned layout is particularly evident. It includes substantial, open, green corridors formed from long rear gardens laid out back-to-back. These corridors are readily appreciable from Shepperton Road and Chesham Avenue, which intersect them. A spacious, verdant feel is derived therefrom.
9. Dwellings have been built at the edges of some of these corridors, including at 34 Chesham Avenue, 71 Shepperton Road, and at the appeal site. However, each of these is a low-level bungalow, mitigating, to a degree, their presence in the street. Whilst the formal, planned layout around the junction of Woodhurst Avenue and Nightingale Road is more easily appreciated, and the spacious character of the area better maintained, where development has not taken place at the edge of green corridors, the bungalows in question are sufficiently modest that these beneficial qualities are not lost entirely.
10. The appeal proposal is to replace an existing bungalow with a pair of semidetached, two-storey houses. The existing bungalow has a pitched, tiled roof that gives it some visual connection to its surrounding built environment, though its open, hardsurfaced forecourt appears somewhat stark against the more verdant aspects of the area. Overall, it is unremarkable but largely inoffensive to the street scene, such that its loss would be neither harmful nor particularly beneficial to the character and appearance of the area.
11. The gables of the proposed houses would reference faux Tudor beams found around the local area. External materials and finishes could be controlled by planning conditions to ensure their quality, and sympathy with local norms. Compared to the existing position, the total footprint of built development at the site would reduce, significantly so in the case of hardsurfaces, and the proposed landscaped front gardens would better integrate the site into the area.
12. Even so, whereas most semidetached dwellings nearby share one roof and a continuous front elevation, the proposed dwellings would have largely independent dual-pitched roofs and a staggered layout; this distinct design is dissimilar to that of most local housing, such that despite the features listed above, overall, the proposed dwellings would appear incongruous in the setting.

13. More significantly, the presence of two-storey dwellings on the edge of a green corridor would be strikingly at odds with the surrounding pattern of development. It would undermine the cohesion of the street layout, and erode the spacious feel derived from it to the notable detriment of the character and appearance of the area.
14. I recognise that there are many two-storey dwellings facing onto Shepperton Road and Chesham Avenue, but these are beyond the outer edge of Crescent Drive, where a noticeably different layout is evident. I attach minimal weight to their presence, therefore.
15. Three appeals in relation to land behind 80 Crescent Drive have been brought to my attention¹. The proposals considered therein are not directly comparable to that before me insofar as that site is undeveloped. That said, I have formed a similar view to the previous Inspectors regarding the character of the local area.
16. The proposed development would have a harmful effect on the character and appearance of the area, contrary to Policies D3 and D4 of the London Plan (2021) and Policies 4 and 37 of the Bromley Local Plan (2019), where they require development to enhance local context by delivering buildings and spaces that positively respond to local distinctiveness.

Protected tree

17. A protected oak tree is found in the rear garden of 71 Crescent Drive, behind the appeal site, close to its northern boundary. An Arboricultural Survey by Arbtech (5 September 2024) (the survey) identified a root protection area (RPA) for the tree, broadly consistent with its canopy. The RPA falls outside the footprint of both the existing bungalow, and the proposed dwellings. The latter would be no closer to the tree than the former and, in part, further from it.
18. I have been provided with no evidence that appropriate tree protection during construction of the new dwellings, and the use of an appropriate, hand-dig method for new boundary fencing, could not be secured by way of planning conditions. Whilst the proximity of the tree to the proposed dwellings may ultimately lead to future occupiers seeking to have it pruned, lopped, or removed, occupiers of the existing bungalow may also seek these outcomes for the same reasons; I see no evidence that the proposed development would introduce a new or materially greater threat to the tree in that respect.
19. At the same time, and whilst the survey was undertaken in accordance with the British Standard 5837:2012, it was nevertheless based on ground level visual observation only. The roots of the tree were not inspected below ground level. Whilst the canopy of a tree may indicate the extent of its roots, I have no evidence that, in this instance, it provides so reliable a guide that the possibility of conflict between the tree and the proposed development can be discounted.
20. Furthermore, I have nothing to indicate the depth and nature of the foundations beneath the existing bungalow, and that they are not so shallow that roots may have penetrated beneath them. It is not clear whether removal of the existing footings would be necessary before the proposed houses could be built, or that such works could be undertaken without compromising the tree. The distance from

¹ APP/G5180/A/14/2227765; APP/G5180/W/16/3158964; APP/G5180/W/18/3204347.

the tree to the existing bungalow is not so great as to assuage these concerns, or to indicate that appropriate solutions can inevitably be arrived at. For this reason, it would not be appropriate to use planning conditions to require more detailed surveys prior to development.

21. Insufficient evidence has been provided to show that the proposed development would not have a harmful effect on the adjacent protected oak tree at 71 Crescent Drive, contrary to Policies 73 and 74 of the Bromley Local Plan (2019) and Policies G6 and G7 of the London Plan (2021), where they seek to protect valuable trees.

Privacy

22. The proposed dwellings would include a total of four first floor rear windows, each serving bedrooms. These would face out onto the rearmost part of the garden of No 71. The distance from the rear elevation of the dwellings to the garden of No 71 would be some 7.2m.
23. The extent to which gardens are overlooked in the local area is typical of many suburban settings, and the garden of No 71 does not enjoy absolute privacy. At the same time, its rearmost part is far enough from neighbouring dwellings to offer a notably less overlooked, more secluded haven. I consider this area likely to be of great value to occupiers of No 71, and the presence therein of a well-maintained, open-sided garden building strongly suggests that this is so.
24. The first-floor windows of the proposed dwellings would result in a highly invasive degree of direct overlooking into the rearmost part of the garden of No 71, over a short distance, from an elevated position. This would have a significantly harmful effect on privacy, fundamentally undermining the ability of occupiers of No 71 to enjoy the most private and secluded part of their garden.
25. Trees at No 71, particularly the protected oak, provide significant screening. This, however, is only when they are in leaf. I have no evidence that occupiers of No 71 do not use the rearmost part of their garden when the leaves have fallen. Moreover, whilst the oak is protected and is a long-lived species, the health of any tree cannot be guaranteed. If any or all of the trees were to fail, even the screening they provide in summer would cease. I have no evidence that any replacements would provide similar benefits to privacy.
26. I recognise that, in assessing previous applications at the site, the Council did not consider the creation of first floor windows to cause unacceptable harm to privacy. However, application 22/02308/ASDWEL involved the creation of a clear window facing westwards, and not directly overlooking the garden of No 71, whilst application 22/03569/ASDEWEL involved a north-facing window at the easternmost end of the garden of No 71. The appeal scheme involves the creation of four clear windows along the first floor of the two proposed dwellings, offering more comprehensive overlooking opportunities into a far greater area of the garden. In any event, I must form a view as to the effects of the proposed development and, on the evidence before me, notwithstanding what view the Council reached on previous schemes I find the proposed development would harm privacy.
27. I conclude that the proposed development would have a harmful effect on the living conditions of neighbouring occupiers at No 71, with particular regard to

privacy, contrary to the pertinent aims of Policy 37 of the Bromley Local Plan (2019).

28. The Council contends that the windows of the proposed development would look out over the private rear gardens of properties at 1, 1A, 3 and 3A, Transmere Road. However, these properties are alongside the appeal site and the proposed development does not include flank windows. No overlooking of these properties would occur.
29. I note reference in the planning statement submitted with the application to the redevelopment of Villa May on Lakeswood Road. On the limited information before me, that building was originally two-storey and so not directly comparable to the appeal site bungalow.

Planning Balance

30. The Council cannot demonstrate a five-year supply of housing land. It identifies a figure of 2.4 years and accepts it to represent a very significant level of undersupply.
31. The appeal scheme would result in an additional dwelling that could be built quickly, helping towards undersupply in the Borough, and supporting the wider Governmental aim of significantly boosting housing supply. It would provide a good quality of accommodation, with sufficient outdoor amenity space. Temporary and lasting economic benefits would arise during the construction phase and from residential occupation. These benefits attract positive weight in my determination in and of themselves, and that weight is increased in this instance by the local housing land supply position.
32. The site is in a sustainable location and the appeal scheme would make effective use of land. The appeal scheme accords strongly to the aims of the Framework in these regards. However, the Framework also considers the creation of high quality buildings and places to be fundamental to the planning and development process, an aim including the creation of places which promote health and well-being, with a high standard of amenity for existing and future users. There is a high degree of correlation between the Framework and the Bromley Local Plan (2019) in these regards. Overall, the harm the appeal scheme would cause to the character and appearance of the area, and the living conditions for neighbouring occupiers, alongside the lack of certainty that a protected tree would not be harmed, significantly and demonstrably outweigh the benefits identified above.

Conclusion

33. I conclude that the proposal conflicts with the development plan and the material considerations do not indicate the appeal should be decided other than in accordance with it. The appeal is dismissed.

A Knight

INSPECTOR