



Appeal Decision

Site visit made on 25 November 2025

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2025

Appeal Ref: APP/T2215/W/25/3367042

Rehoboth House, Brent Way, Dartford, Kent DA2 6DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by JNissi Properties Limited against the decision of Dartford Borough Council.
 - The application Ref is DA/23/00828/OUT.
 - The development proposed is 9 dwellings to the rear of Winners Way in underutilised space including any required change of use. Development to be accessed via the existing service road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area, with particular regard to the health and longevity of protected trees; and
 - Whether the proposed development would provide adequate living conditions for future occupants, with particular regard to noise and disturbance, air quality, and private outdoor amenity space.

Reasons

Character and appearance

3. The appeal site is a parcel of land associated with a building presently in use as a church. The appeal site includes a hard-surfaced service yard and a wide strip of undeveloped land with trees and vegetation around the periphery.
4. The church building has a large footprint and comprises flat roofed, single-storey and two-storey volumes. The building has large areas of glazing, loading bays at the rear elevation, and is finished in dark brick and grey corrugated metal. There is a large, hard-surfaced car park at the front, and landscaped verges at the edge of its curtilage. The building has a modern, functional appearance.
5. The surrounding area is principally residential in character, comprising a mix of house types with modern, two-storey terraced and semi-detached houses to the east and south, and a complex of apartment blocks to the north.

6. Beyond the tall brick wall at the site's western boundary lies the A282 highway. Traffic noise, highway infrastructure, signage and lighting columns contribute to the area's urban character.
7. The Arboricultural Impact Assessment and Method Statement August 2023 (AIA) identifies a total of 33 trees on the site. These represent a mix of species and comprise early mature, semi-mature, and mature specimens, most of which have a significant remaining lifespan. There is a range of heights, with some tall specimens exceeding 15m.
8. The AIA indicates that of the trees on-site, one is high quality (A category), 12 trees are medium quality (B category), 13 trees are low quality (C category), and seven trees are unsuitable for retention (U category). Therefore, many trees are of sufficient value to be considered for retention.
9. Of those trees within the site, nine individual trees toward the centre and eastern end of the site are the subject of a Tree Preservation Order (TPO)¹, and eight trees at the western part of the site are subject to a group TPO. The TPO trees are of a variety of species, including Holm Oak, Silver Birch, Black Pine, English Oak, Scots Pine, and Norway Maple.
10. The AIA suggests the trees' contribution to visual amenity is diminished by their sheltered location. However, from Brent Way, the trees' mixed canopy is visible behind above the height of the church building and provides a green backdrop. In addition, the trees soften the appearance of the boundary with the A282 and provide screening and separation between the church building and the estate of flats to the north.
11. The trees are of particular prominence from the adjoining parking court which serves the neighbouring flats. Some individual specimens, such as the Scots Pine (T9) are prominent in longer distance views within the neighbouring estate through the gaps between blocks of flats and above roofs, such as from Osbourne Road.
12. Therefore, the site's trees contribute important greenery to the street scene which softens the dense, urban, hard-landscaped appearance of the area. Collectively, the trees have a positive effect on the area's character.
13. The illustrative layout plan shows nine plots, arranged as three terrace rows of three dwellings, each with a private rear garden. The proposal is in outline form with landscaping, layout, appearance, and scale comprising reserved matters for future determination. Nonetheless, the AIA indicates that the proposal would necessitate removal of numerous trees².
14. The appellant asserts the development would safeguard the trees of greatest amenity value. However, the AIA indicates that in addition to removal of nine low quality trees, the proposal would require removal of four medium quality trees and one high quality tree. The proposal would therefore result in a loss of trees of highest retention category values, including those protected by TPO.
15. Due to the large number of trees to be removed, and the prominence of certain individual specimens, the proposal would significantly and noticeably reduce the

¹ Council's TPO ref: 23/00011/TPO

² AIA indicates the following trees would require removal: T001-T003, T004, T005, T010-T011, T013-T020, T022-T023, T029, T030.

extent of greenery within the street scene of Brent Way, Osbourne Road, the parking court to the north, and including the skyline above the church building.

16. The AIA recommends tree removal be mitigated by new plantation. However, it is unclear how tree planting of comparable scale would be accommodated alongside the proposed development, and new specimens would likely take a long time to mature to adequately compensate the proposed loss of trees. Therefore, whilst noting landscaping is a reserved matter, I cannot be certain the loss of trees would be adequately mitigated.
17. The TPO was brought into effect following the submission of the proposal and is therefore in force at time of my decision. Irrespective of this, as set out above, the contribution of the site's trees to the area's character is confirmed by my observations from the site visit and the quality of trees is identified by the AIA. Therefore, I am unconvinced that trees to be lost are of modest quality or can be readily replaced.
18. For the reasons set out above, the proposal would result in a loss of valued trees and would substantially diminish the mature, green, character of the street scene. Therefore, the proposal would harm the character and appearance of the area.
19. The proposal would conflict with Policy M1 of the Dartford Plan 2024 (DLP) which requires proposals respond to, reinforce and enhance positive aspects of the locality, particularly using and enhancing prominent physical attributes, including tree coverage. In addition, the proposal would not comply with DLP Policy M14 which requires development proposals, including works to trees protected under a Tree Preservation Order, retain existing tree coverage, hedgerows and other landscape features wherever possible.

Living conditions

20. The site's western boundary abuts the A282, an eight-lane highway near to the Dartford Crossing and linking to the M25 orbital motorway. During my site visit, loud traffic noise was a dominant feature of the background noise environment.
21. The Noise Impact Assessment October 2023 (NIA) provides a background noise survey at two locations within the site, carried out over three days to determine prevailing background noise levels. The measured noise levels captured on site, facing the A282 road, recorded 72dB LAeq on all daytime measurements and 69dB LAeq on the night-time measurements. Therefore, noise levels at the site are relatively high for a residential area and are similar during both day and night.
22. The recorded noise levels significantly exceed World Health Organisation (WHO) and BS:8233 target external and internal noise levels. Therefore, the NIA proposes a range of mitigation measures, such as higher minimum masonry and glazed acoustic specifications at all plots, and acoustic barrier fences at plot gardens.
23. Ventilation would be provided by acoustic trickle vents. However, when trickle vents do not provide adequate ventilation, such as on hotter days, open windows would result in noise levels exceeding the BS:8233 limits and would cause sleep disturbance for occupants. Mechanical rapid purge ventilation is proposed for all bedrooms at plots 7-9 to provide residents with the ability to cool bedrooms without opening windows.

24. The proposed development would require occupants to keep windows closed to avoid exposure to noise. This would amount to a significant observed adverse effect, since the proposed development would cause a material change in the behaviour of occupants³.
25. Therefore, whilst noise levels could be mitigated, this would be at the expense of normal behaviours such as opening a window. Such mitigation may be acceptable in certain circumstances but is not adequately justified for the purposes of the appeal proposal. Therefore, the proposal would fail to provide a suitable standard of living conditions for future occupants in respect of noise exposure.
26. The site is located in an Air Quality Management Area (AQMA) as a result of breach of the NO₂ air quality objective. The updated Air Quality Assessment⁴ (AQA) provides a residential suitability assessment, comparing the existing air quality in relation to the relevant air quality objective using a dispersion model approach. The AQA identifies a baseline from local monitoring data and Defra background pollution estimates, which indicates the level of pollution concentration at the site would not exceed national air quality objectives (AQOs).
27. The AQA assessed receptors which represent the varying levels of different storeys of a prospective future building. The receptors are located near to, but set in from, the western site boundary. Tables 5.4-5.6 of the AQA indicate the predicted concentrations of NO₂, PM₁₀, and PM_{2.5} at the building facades of the proposed development at all storeys would be below the AQOs. Therefore, the AQA demonstrates that air quality at the site would be adequate for habitation as a residential development.
28. Therefore, the evidence indicates air quality would be adequate and does not suggest natural ventilation would be unsuitable.
29. However, the AQA identifies potential impacts may occur at the proposed ground level units due to road traffic exhaust emissions associated with vehicles travelling to and from the site and additionally, future residents may be exposed to any existing air quality issues. Therefore, the AQA recommends that suitable mitigation in the form of a Mechanical Ventilation with Heat Recovery (MVHR) system with inline filtration be provided at specified ground level units. This would ensure a supply of clean air for future occupants and is suggested within the IAQM guidance document as a suitable solution for a development.
30. Whilst concentration of pollutants would be below AQO levels, use of a MVHR system would ensure all residents have access to air of adequate quality and would mitigate potential adverse effects on health. Therefore, such mitigation would be necessary and proportionate in the interests of mitigating residual risk to provide a suitable standard of living conditions.
31. The Design & Access Statement indicates the nine proposed dwellings would be well-sized terraced houses to accommodate family living. Paragraph 5.90 of the DLP indicates that, on average across a whole development, an indicative guideline of at least 60sqm of private amenity space per house should be achieved. However, the illustrative layout suggests gardens would be

³ Planning Practice Guidance, Paragraph: 005 Reference ID: 30-005-20190722

⁴ Air Quality Assessment Rehoboth House, Brent Way, Dartford DA2 6DA, Construction Economist Group, 03 June 2025

approximately 40sqm to 50sqm. Therefore, all plots would fail to satisfy this indicative guideline.

32. I accept the proposal is in outline form and layout would be reserved for future determination. The appellant asserts that the site is of sufficient area to provide enough private amenity space.
33. However, as discussed above, the site is heavily constrained by on-site TPO trees, and the adverse effects of noise and air quality are greater the closer to the western boundary with the A282 highway. In addition, the rear elevation of the church building forms the site's southern boundary. This relationship would affect the design of the development. Therefore, it is uncertain whether a layout could be achieved so as to accommodate larger areas of private outdoor amenity space.
34. It may be possible to reduce the requirement for private amenity space through a layout comprising different dwelling types, such as flats/apartments. However, it is unclear whether such a change would have unintended consequences in respect of other constraints. For example, mitigation measures set out by the supporting evidence, such as the NIA and AQA, are specific to individual plots and predicated on the illustrative layout.
35. In addition, the gardens would not benefit from the air quality ventilation and filtration measures proposed for the internal environment and as discussed above, the small amenity spaces would be extensively enclosed by tall acoustic fences to mitigate noise. Therefore, the proposal fails to convince me the private outdoor amenity spaces would be of suitable quality.
36. Consequently, the proposal does not positively demonstrate that the development would be capable of achieving an adequate quantity of private amenity space of sufficient quality. Therefore, I must conclude the shortfall in provision of gardens would represent a poor standard of design.
37. Whilst I have identified that air quality would not breach AQO levels, as set out above, the proposed noise mitigation measures would fail to secure a suitable standard of accommodation. Furthermore, it is not demonstrated that the site would accommodate the quantum of development proposed with appropriate provision of private amenity space of adequate quality. Therefore, the proposal fails to demonstrate a suitable standard of living conditions would be achieved.
38. The proposal would therefore conflict with DLP Policy M1 which requires proposals fulfil policy requirements for amenity space provision, and DLP Policy M2 which requires proposals demonstrate that it is designed and located to not result in unacceptable material impacts on public health, including noise and disturbance.

Other Matters

39. The proposal would contribute nine dwellings to the area's housing supply, which would be sited in an accessible location. The proposal would promote development of small and medium-sized sites and would utilise previously developed land. The development would facilitate construction jobs, local expenditure, and would necessitate financial contributions to provide investment in local infrastructure. The development would minimise emissions through use of renewable energy technologies and would reduce flood risk through sustainable drainage. Therefore, the proposal would provide a range of social, economic, and

environmental benefits. However, such benefits would not outweigh the harms I have identified in respect of character and appearance and living conditions, and resultant conflict with development plan policies, to which I afford significant weight against the proposal.

40. Within the wider locality, there are existing communities near the A428 road and most existing dwellings would not benefit from the types of mitigation proposed. However, I have assessed the proposal against the policies of the development plan using the submitted evidence and have concluded that the proposal would not provide satisfactory living conditions. Therefore, I do not consider that the standard of existing development in the locality justifies the proposal.
41. The appellant asserts the Council has approved residential development on comparable sites elsewhere. A scheme for residential development at 53 Watling Street was granted planning permission by the Council which utilised MVHR. The scheme differs from the proposal since the site was in existing residential use and has a different relationship to the highway, being separated by a 20m-wide landscaped area. In addition, the scheme was assessed against policies of the former Local Plan, which the Council suggests were less robust than the DLP. Moreover, I am not bound by previous decisions of the Council.

Conclusion

42. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed.

E Dade

INSPECTOR