
Appeal Decision

Site visit made on 12 September 2025

by A Oyebade MSc FCILT

an Inspector appointed by the Secretary of State

Decision date: 26 February 2026

Appeal Ref: APP/D5120/W/25/3360503

45-47 Nuxley Road, Belvedere, Bexley, Kent DA17 5JN

- 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 Alan Fitzgerald against the decision of the Council of the London Borough of Bexley.
 - The application Ref is 24/02650/FUL.
 - The development proposed is first, second floor and rear extensions to create retained commercial unit plus 6 flats plus the demolition of redundant ancillary buildings and erection of a single storey three-bedroom detached dwelling with associated cycle parking, bin store and amenity space.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The element of the proposal concerning alterations to the host building, namely the creation of six flats and the retention of the existing commercial unit, is regarded by the Council as broadly consistent with the previously approved scheme (Ref: 24/01416/FUL), in respect of this component alone. Consequently, the primary reason for refusal relates to the other part of the development, which seeks to demolish the two rear ancillary buildings and replace them with a three-bedroom dwelling.
3. The Council indicates that, since the appeal proposal was determined in January 2025, it has adopted the Bexley Design Guide Supplementary Planning Document (SPD, Part 1: Design Principles), which supersedes the former Design for Living SPD (Adopted 2006). The Council has set out its view of the implications of the new SPD in its statement, and the appellant has had the opportunity to respond to this. I have determined the appeal based on the SPD adopted in January 2025 and other relevant policies.

Main issue

The main issue is the effect on the living conditions of future occupiers of the development.

Reasons

4. The appeal site lies within the traditional suburban high-street setting of Belvedere, defined by a consistent pattern of two to three-storey terraced brick buildings. Ground floors are predominantly in commercial use, with residential accommodation above. Nuxley Road forms the main commercial spine of Upper Belvedere and is identified as a designated local centre. The street has a clear and

coherent urban grain, with buildings positioned directly at the back of the pavement, creating a strong and continuous building line.

5. Buildings along the street generally have modest footprints and narrow frontages, reflecting their origins as Victorian or early-20th-century shop units. Many retain large, glazed shopfronts at ground level, accompanied by fascia signage in a variety of styles and colours. Upper floors often preserve original architectural features, including sash or casement windows and simple brick detailing.
6. Design Code D16 of Bexley Design Guide SPD (Adopted January 2025) requires that new development adjoining existing residential properties must safeguard established expectations of privacy and outlook. In such cases, a minimum separation distance of 16 metres is required between habitable-room windows and any opposing flank wall. Design Code D18 further specifies that the primary usable space of the rear garden should be protected from overlooking, with proposed windows set at least 6m from this zone. In addition, Design Code D23 sets out the criteria for amenity space provision, including the requirement that private gardens should be located to the rear of buildings. Front gardens are not counted as private amenity space, although they may be provided in addition to rear gardens and/or serve as a visual buffer to the street, contributing to the overall amenity space calculation.
7. I note that a recent application (Ref: 22/02801/FUL) seeking the replacement of the rear ancillary buildings with a three-bedroom dwelling of comparable scale on the appeal site was dismissed at appeal. The appeal decision (APP/D5120/W/23/3325075), as referenced in the Council officer's report, stated: "Although I have not found harm in respect of the backland position, the character and appearance of the area, access or fire safety, the appeal proposal would be injurious to the living conditions of future occupants of the property in respect of outlook and external amenity space."
8. The appeal proposal seeks to replace the existing modest single-storey ancillary structures along the rear boundary with a new single-storey, three-bedroom detached dwelling that would occupy a substantially larger portion of the site. The dwelling would sit very close to the side and rear boundaries. As the primary habitable rooms are positioned immediately adjacent to the boundary fences, their windows would face directly towards these boundaries where spacing is severely constrained. This arrangement would lead to unacceptable loss of privacy for future occupiers, while also restricting outlook and limiting the amount of daylight available to these rooms.
9. Moreover, the external amenity spaces proposed are inadequate. The front garden lacks sufficient separation from the rear courtyard of the host building to safeguard the privacy of future residents. The rear garden is narrow and would make only a limited contribution to the overall spatial quality of the development. As a result, neither space would provide a functional or usable area suitable for family living.
10. The absence of meaningful separation between the proposed dwelling and the site boundaries further underscores the over-intensification of this part of the plot. It demonstrates that the scale and footprint of the building exceed the site's reasonable capacity to accommodate such development while maintaining acceptable living conditions. These shortcomings would, in turn, create a pronounced sense of visual confinement and enclosure for future occupiers.

11. The appellant argues, citing several case law authorities, that it is sufficient for a proposal to accord with the development plan when read as a whole, and that compliance with every individual policy is not required. It is acknowledged that development plan policies can sometimes pull in different directions. However, the matter of ensuring acceptable living conditions for future occupiers is a fundamental consideration, firmly embedded in multiple development plan policies, including those within the Local Plan, London Plan and the National Planning Policy Framework (the “Framework”).
12. The appellant maintains that the development complies with Policy DP11 of the Local Plan. Nonetheless, as outlined above, it has not been demonstrated that the proposed rear detached dwelling would achieve a high standard of landscaping design that would secure appropriate levels of privacy, outlook, or natural daylight for future occupiers.
13. The appellant contends that the SPD offers no guidance on boundary distances, that the Council has not raised concerns regarding the amenity of existing residents, and that the 16-metre distance in the SPG is not related to boundaries. They also argue that the overall amenity space provided exceeds London Plan requirements, and at ground floor level no loss of privacy would be possible as units are separated by boundary fencing. While I accept that the 16-metre SPG distance does not specifically address boundary relationships, this is not the determining issue. The fundamental concern is the degree of poor outlook resulting from the detached building’s proximity to its side and rear boundaries, as well as the limited separation between its front garden and the boundary of the host property and its amenity area. As previously noted, the habitable rooms are positioned immediately adjacent to boundary fences, with the flank windows facing them within the constrained spaces. This would cause future occupants of the development to experience poor outlook and living environment.
14. The appellant argues that the SPD’s example of a minimum 6-metre separation from protected private garden areas relates only to upper-floor windows and is therefore not applicable to the appeal proposal. The proposed dwelling would sit at a lower level and approximately 21 metres from the nearest facing windows of the front building’s flats. With the terraces of these flats screened, there would be no overlooking or loss of privacy for either the existing or the consented units. However, Design Code D18 of the SPG makes clear that the principal usable part of a rear garden must be protected from overlooking, with any new windows set back at least 6 metres from this area. In this case, the concern arises from the limited depth of the rear dwelling’s front garden, which remains constrained and insufficiently integrated into the wider landscape design. This results in a perception of inadequate separation from the boundary of the host property. The example cited does not weaken this requirement; rather, it illustrates compliance by maintaining the full 6-metre separation at ground level.
15. Taken as a whole, the appeal scheme would give rise to unacceptable harm to the living conditions of future occupiers of the detached rear dwelling. In respect of the unit, the proposal would therefore conflict with Policy DP11 of Bexley Local Plan (Adopted April 2023), Bexley Design Guide SPD and Policy D3 of the London Plan (Adopted March 2021).

Other Considerations and Planning Balance

16. The Council has not demonstrated a 5-year supply of deliverable housing sites. Paragraph 11d (ii) of the Framework explains that in these circumstances, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies.
17. The appeal site is located within reasonable proximity to a range of services and facilities, and the proposal would contribute positively to housing supply, bringing associated social and economic benefits both during construction and once occupied. Nevertheless, as the sole reason for refusal relates specifically to the detached family dwelling element of the scheme, the benefit of providing one additional unit through a more efficient use of suburban land carries only limited weight in the overall planning balance.
18. The Framework seeks to ensure that developments create places with a high standard of amenity for future users. In the circumstances of this case, I have concluded that there would be harm to the living conditions of future occupiers of the proposed development, which would be long lasting. The adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the Framework policies taken as a whole. The proposed development would not therefore benefit from the presumption in favour of sustainable development. Hence, the development would be against Policy DP11 of Bexley Local Plan (Adopted April 2023), Bexley Design Guide SPD and Policy D3 of the London Plan (Adopted March 2021).

Conclusion

19. The appeal scheme conflicts with the development plan as a whole. No other material considerations have been advanced that would justify a decision other than in accordance with the plan. For the reasons set out above, the appeal should be dismissed.

A Oyebade

INSPECTOR