

Location Land At 49 And 51 Beresford Avenue, N20 0AD

Reference: 21/5999/RMA Received: 11th November 2021
Accepted: 12th November 2021

Ward: Brunswick Park Expiry 7th January 2021

Case Officer: Stephen Volley

Applicant: Millen

Proposal: Reserved matters application seeking approval for appearance, scale and landscaping pursuant to Appeal reference APP/N5090/W/20/3248645 (outline application reference 19/5079/OUT) dated 29/10/20 for 'Erection of 6 Passive Semi-detached houses on land to the rear of 49 and 51 and provision of new access'

OFFICER'S RECOMMENDATION

Approve subject to conditions

AND the Committee grants delegated authority to the Service Director – Planning and Building Control to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in their absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan
BAB001 Rev 2 (dated 4/2/21) - Site Layout and Landscaping Plan
BAB002 Rev 3 (dated 3/3/21) - AIA and Habitat Plan amended version received 3/3/21
BAB004 Rev 4 (dated 12/11/2021) Site Sections
BAB006 (dated 01/12/2020) Garage Plan
BAB008 Rev 1 (dated 3/3/21) - Double Garage Plan
BAB EL 001 Rev 1 (dated 12/11/2021 - Plans and elevations
Tree Planting Schedule
Design and Access Statement Millen, 12th November 2021
Bauder Extensive Biodiverse Green Roof Solution Spec Details.

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 This development must be begun within two years from the date of this permission. Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 3
 - a) No development other than demolition works shall take place until details/sample of the materials to be used for the external surfaces of the building(s) and hard surfaced areas hereby approved have been submitted to and approved in writing by the Local Planning Authority.
 - b) The development shall thereafter be implemented in accordance with the materials as approved under this condition.Reason: To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policies 1.1, 7.4, 7.5 and 7.6 of the London Plan 2016.
- 4
 - a) The site shall not be brought into use or first occupied until details of the means of enclosure, including boundary treatments and the main entrance gates, have been submitted to and approved in writing by the Local Planning Authority.
 - b) The treatment of boundaries should be permeable to species such as hedgehogs (*Erinaceus europaeus*) and common toad (*Bufo bufo*), with the introduction of a minimum of 1no 13 x 13cm ground level access 'hedgehog hole' between the application site and each neighbouring piece of land to enable connections and prevent the fragmentation of habitat
 - c) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.Reason: To ensure that the proposed development does not prejudice the appearance of the locality and/or the amenities of occupiers of adjoining residential properties and to confine access to the permitted points in the interest of the flow of traffic and conditions of general safety on the adjoining highway in accordance with Policies DM01, DM03, DM16, DM17 of the Development Management Policies DPD (adopted September 2012), and Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012).
- 5
 - a) Before the development hereby permitted is first occupied, details of privacy screens to be installed shall be submitted to and approved in writing by the Local Planning Authority.
 - b) The screens shall be installed in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the development does not prejudice the amenity of future occupiers or the character of the area in accordance with policies DM01 and DM02 of the Development Management Policies DPD (adopted September 2012), the Residential Design Guidance SPD (adopted October 2016) and the Sustainable Design and Construction SPD (adopted October 2016).

- 6
 - a) A scheme of hard and soft landscaping shall be implemented in accordance with the following approved documents prior to the occupation of the hereby approved development:
BAB001 Rev 2 (dated 4/2/21) - Site Layout and Landscaping Plan
BAB002 Rev 3 (dated 3/3/21) - AIA and Habitat Plan amended version received 5/3/21
Design Access Statement, Millen, 12th November 2021
Tree Planting Schedule
Bauder Extensive Biodiverse Green Roof Solution Spec Details.
 - b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.
 - c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.
Reason: To ensure a satisfactory appearance to the development in accordance with
Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and 7.21 of the London Plan 2016.
- 7 The green roofs shall be implemented in accordance with the following approved documents prior to the commencement of the use or first occupation of the development and retained as such thereafter.
BAB001 Rev 2 (dated 4/2/21) - Site Layout and Landscaping Plan
BAB002 Rev 3 (dated 3/3/21) - AIA and Habitat Plan amended version received 5/3/21
Bauder Extensive Biodiverse Green Roof Solution Spec Details.
Should part of the approved green roof be removed, die, become severely damaged or diseased within five years of the completion of development, it shall be replaced in accordance with the details approved by this condition.
Reason: To ensure that the proposed development does not prejudice the enjoyment of the occupiers of their homes in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2015.
- 8 Before the development hereby permitted is first occupied or the use first commences the parking spaces/garages shown on the approved drawings

shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.

Reason: To ensure that parking is provided in accordance with the council's standards in the interests of pedestrian and highway safety, the free flow of traffic and in order to protect the amenities of the area in accordance with Policy DM17 of the Development Management Policies DPD (adopted September 2012) and Policies 6.1, 6.2 and 6.3 of the London Plan 2021.

Informative(s):

- 1 In accordance with paragraphs 38-57 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.

- 2 The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sq m on residential and retail development in its area of authority. All other uses and ancillary car parking are exempt from this charge. Your planning application has therefore been assessed at this time as liable for a £__ payment under Barnet CIL.
Please note that Indexation will be added in line with Regulation 40 of Community Infrastructure Levy.
Liability for CIL will be recorded to the register of Local Land Charges as a legal charge upon your site payable should you commence development. Receipts of the Mayoral CIL charge are collected by the London Borough of Barnet on behalf of the Mayor of London; receipts are passed across to Transport for London to support Crossrail, London's highest infrastructure priority. You will be sent a 'Liability Notice' that provides full details of the charge and to whom it has been apportioned for payment. If you wish to identify named parties other than the applicant for this permission as the liable party for paying this levy, please submit to the Council an 'Assumption of Liability' notice, which is also available from the Planning Portal website. The CIL becomes payable upon commencement of development. You are required to submit a 'Notice of Commencement' to the Council's CIL Team prior to commencing on site, and failure to provide such information at the due date will incur both surcharges and penalty interest. There are various other charges and surcharges that may apply if you fail to meet other statutory requirements relating to CIL, such requirements will all be set out in the Liability Notice you will receive. You may wish to seek professional planning advice to ensure that you comply fully with the requirements of CIL Regulations.
If you have a specific question or matter you need to discuss with the CIL team, or you fail to receive a 'Liability Notice' from the Council within 1 month of this grant of planning permission, please email us at: cil@barnet.gov.uk.
Relief or Exemption from CIL: If social housing or charitable relief applies to your development or your development falls within one of the following

categories then this may reduce the final amount you are required to pay; such relief must be applied for prior to commencement of development using the 'Claiming Exemption or Relief' form available from the Planning Portal website: www.planningportal.gov.uk/cil.

You can apply for relief or exemption under the following categories:

1. Charity: If you are a charity, intend to use the development for social housing or feel that there are exception circumstances affecting your development, you may be eligible for a reduction (partial or entire) in this CIL Liability. Please see the documentation published by the Department for Communities and Local Government

At

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6314/19021101.pdf

2. Residential Annexes or Extensions: You can apply for exemption or relief to the collecting authority in accordance with Regulation 42(B) of Community Infrastructure Levy Regulations (2010), as amended before commencement of the chargeable development.

3. Self Build: Application can be made to the collecting authority provided you comply with the regulation as detailed in the [legislation.gov.uk](http://www.planningportal.gov.uk) Please visit <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil> for further details on exemption and relief.

- 3 The applicant is advised that any development or conversion which necessitates the removal, changing, or creation of an address or addresses must be officially registered by the Council through the formal 'Street Naming and Numbering' process. The London Borough of Barnet is the Street Naming and Numbering Authority and is the only organisation that can create or change addresses within its boundaries. Applications are the responsibility of the developer or householder who wish to have an address created or amended. Occupiers of properties which have not been formally registered can face a multitude of issues such as problems with deliveries, rejection of banking / insurance applications, problems accessing key council services and most importantly delays in an emergency situation. Further details and the application form can be downloaded from: <http://www.barnet.gov.uk/naming-and-numbering-applic-form.pdf> or requested from the Street Naming and Numbering Team via street.naming@barnet.gov.uk or by telephoning 0208 359 4500.
- 4 Refuse collection points should be located within 10 meters of the Public Highway. Alternatively, the dustbins will need to be brought to the edge of public highways on collection days. Any issues regarding refuse collection should be referred to the Cleansing Department
- 5 As a result of development and construction activities is a major cause of concern to the Council. Construction traffic is deemed to be "extraordinary traffic" for the purposes of Section 59 of the Highways Act 1980. During the course of the development, a far greater volume of construction traffic will be traversing the public highway and this considerably shortens the lifespan of the affected highway. To minimise risks and damage to public highway, it is now a requirement as part of any new development to undertake a Highway

Condition Survey of the surrounding public highway to the development to record the state of the highway prior to commencement of any development works. The condition of the public highway shall be recorded including a photographic survey prior to commencement of any works within the development. During the course of the development construction, the applicant will be held responsible for any consequential damage to the public highway due to site operations and these photographs will assist in establishing the basis of damage to the public highway. A bond will be sought to cover potential damage resulting from the development which will be equivalent to the cost of highway works fronting the development. To arrange a joint highway condition survey, please contact the Highways Development Control / Network Management Team on 020 8359 3555 or by e-mail highways.development@barnet.gov.uk or nrswa@barnet.gov.uk at least 10 days prior to commencement of the development works.

Please note existing public highways shall not be used as sites for stock piling and storing plant, vehicles, materials or equipment without an appropriate licence. Any damage to the paved surfaces, verges, surface water drains or street furniture shall be made good as directed by the Authority. The Applicant shall be liable for the cost of reinstatement if damage has been caused to highways. On completion of the works, the highway shall be cleared of all surplus materials, washed and left in a clean and tidy condition.

- 6 If a concrete pump lorry is operated from the public highway, the surface of the highway and any gullies or drains nearby must be protected with plastic sheeting. Residue must never be washed into nearby gullies or drains. During the development works, any gullies or drains adjacent to the building site must be maintained to the satisfaction of the Local Highways Authority. If any gully is damaged or blocked, the applicant will be liable for all costs incurred. The Applicant shall ensure that all watercourses, drains, ditches, etc. are kept clear of any spoil, mud, slurry or other material likely to impede the free flow of water therein.
- 7 The developer is informed that hoarding, scaffolding, crane and skips on or abutting the public highway require a licence. To make an application for these licenses please contact the council's Highways Licence Team on 0208 359 3555 for any necessary Highways Licenses or email highwayscorrespondence@barnet.gov.uk
- 8 Any gates must open inwards and not out onto the public highway for health and safety reasons.
- 9 The Air Quality reports required under the Environment Act 1995 have highlighted that this area currently experiences or is likely to experience exceedances of Government set health-based air quality standards. A list of possible options for mitigating poor air quality is as follows: 1) Use of passive or active air conditioning; 2) Use of acoustic ventilators; 3) Altering lay out so habitable rooms are sited away from source of poor air quality; 4) Non residential usage of lower floors; 5) Altering footprint by siting further away from source of poor air quality. For developments that require an air quality report; the report should have regard to the air quality predictions and

monitoring results from the most recent Review and Assessment report available from the LPA web site and Air Quality England. The report should be written in accordance with the following guidance : 1) Environmental Protection UK and IAQM Guidance: Land-Use Planning and Development Control: Planning for Air Quality, Jan 2017); 2) Environment Act 1995 Air Quality Regulations; 3) Local Air Quality Management Technical Guidance LAQM.TG(16); 4) London Councils Air Quality and Planning Guidance (2007); 5) Mayor of London's Supplementary Planning Guidance for Sustainable Design and Construction (2014); 6) Section 6.2 of the Technical Guidance Note D1 (Dispersion) 'Guidelines on Discharge Stack Heights for Polluting Emissions' 7) The control of dust and emissions from construction and demolition, Best Practice Guidance London Councils, 2006; 8) The Control of Dust and Emissions during construction and demolition supplementary planning guidance July 2014; 9) Air Quality Neutral Planning Support Update April 2014 and 10) Guidance on the assessment of dust from demolition and construction, Institute of Air Quality Management, January 2014

Please note that in addition to the above, consultants should refer to the most relevant and up to date guidance and codes of practice if not already listed in the above list.

- 10 The submitted Construction Method Statement shall include as a minimum details of:
- o Site hoarding
 - o Wheel washing
 - o Dust suppression methods and kit to be used
 - o Site plan identifying location of site entrance, exit, wheel washing, hoarding, dust suppression, location of water supplies and location of nearest neighbouring receptors. Explain reasoning if not applicable.
 - o Confirmation whether a mobile crusher will be used on site and if so, a copy of the permit and indented dates of operation.
 - o Confirmation of the following: log book on site for complaints, work in accordance with British Standards BS 5228-1:2009+A1:2014 and best practicable means are employed; clear contact details on hoarding. Standard construction site hours are 8am-6pm Monday - Friday, 8am-1pm Saturday and not at all on Sundays and Bank Holidays. Bonfires are not permitted on site.
 - o For major developments only: provide a copy of an asbestos survey; For smaller developments -confirmation that an asbestos survey has been carried out.
 - o For major developments only: confirmation that all Non Road Mobile Machinery (NRMM) comply with the Non Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999.
- The statement shall have regard to the most relevant and up to date guidance including: Guidance on the assessment of dust from demolition and construction, Institute of Air Quality Management, January 2014.

OFFICER'S ASSESSMENT

1. Site Description

The site is occupied by 49 and 51 Beresford Avenue, a pair of semi-detached dwellings, located at the top end of the cul-de-sac, in the Brunswick Park Ward. The gradient of the land drops away from the turning head in front of the dwellings. The site includes a substantial area of land to the rear of these dwellings, the garden land serving the houses, which extends back to the rear garden areas of Weirdale Avenue.

A railway tunnel passes under the site. The site does not fall within a conservation area, nor does it contain any listed buildings.

2. Site History

Reference: 21/5046/OUT

Proposal: Erection of 6no semi detached dwellings and 1no detached dwelling on land at 49 and 51 following demolition of no.51 Beresford Avenue

Decision: Refused

Decision Date: 11 November 2021

Reference: 20/6076/RMA

Proposal: Reserved matters application seeking approval for appearance, scale and landscaping pursuant to Appeal reference APP/N5090/W/20/3248645 (outline application reference 19/5079/OUT) dated 29/10/20 for 'Erection of 6 Passive Semidetached houses on land to the rear of 49 and 51 and provision of new access'

Appeal Decision: Pending - APP/N5090/W/21/3276065

Decision: Refused

Decision Date: 14 May 2021

Reasons for Refusal:

1. The scale of the proposed buildings, by virtue of their combined height, massing, design and siting, would result in an incongruous and discordant intervention that would fail to respect the existing pattern of development, to the detriment of the character and appearance of the surrounding area, contrary to Policy D3 of the London Plan (2021), Policy CS5 of the LB Barnet; Local Plan (Core Strategy) DPD (2012), Policy DM01 of the LB Barnet; Local Plan (Development Management Policies) DPD (2012) and Part 2 of the LB Barnet: Residential Design Guidance SPD (2016)
2. The scale of the proposed buildings, by virtue of their combined height, massing, design and siting, would result in an unacceptable loss of outlook

and visual amenity in particular to the rear habitable rooms and garden of No 53 Beresford Avenue, to the detriment of the residential amenities of neighbouring occupiers, contrary to Policy D3 of the London Plan (2021), Policy CS5 of the LB Barnet; Local Plan (Core Strategy) DPD (2012), Policy DM01 of the LB Barnet; Local Plan (Development Management Policies) DPD (2012) and Part 2 of the LB Barnet: Residential Design Guidance SPD (2016)

19/5079/OUT

Proposal: Erection of 6 Passive Semi-detached houses on land to the rear of 49 and 51 and provision of new access

Decision: Recommended for approval, refused at Committee (07.01.20), allowed at appeal with costs.

Decision Date: Refused 20.01.2020.

Appeal Decision: Allowed - APP/N5090/W/20/3248645

Appeal Decision date: 29th October 2020.

Reason for refusal:

1. The development would result in an increased level of vehicular activity on the proposed vehicular access road and on site and lead to unacceptable level of noise and disturbance from additional comings and goings to the detriment of the amenities of neighbouring occupiers in particular to Nos 47 and 49 Beresford Avenue. The increased vehicular activity would also impede the movement of larger vehicles on Beresford Avenue as a result of the narrow turning point at the top of the cul-de-sac. As such this would be contrary to Policy DM01 of the Development Management Policies (2012) and CS5 of Barnet's Core Strategy (2012).

18/2526/OUT

Proposal: Erection of 6 Passive Semi-detached houses on land to the rear of 49 and 51 and provision of new access.

Decision: No formal decision issued.

Decision Date: Committee date 17.07.2018.

Appeal Decision: Dismissed - APP/N5090/W/18/3208804

Appeal Decision date: 15th August 2019

The Chipping Barnet Area Planning Committee resolved to refuse the application for the following reasons (however the application was appealed on grounds of non-determination before a decision was formally issued).

1.The proposed development by reason of its size, siting, layout, design and scale would represent a cramped form of back-land development and an overdevelopment of the site that is out of keeping with and harmful to the character and appearance of the area, contrary to policies 3.5, 7.4 and 7.6 of the London Plan (Adopted 2016), policies CSNPPF, CS1 and CS5 of the Barnet Core Strategy (Adopted September 2012), policy DM01 of the Barnet Development Management Policies Document (Adopted September 2012) and the advice contained in the Barnet Residential Design Guide Supplementary Planning Document (Adopted October 2016).

2.The proposed vehicular access road would result in an increased level of vehicular activity on site and lead to unacceptable level of noise and disturbance from additional comings and goings to the detriment of the amenities of neighbouring occupiers in particular to Nos 47 and 49 Beresford Avenue. As such this would be contrary to Policy DM01 of the Development Management Policies (2012) and CS5 of Barnet's Core Strategy (2012).

17/3663/OUT

Proposal: Demolition of no existing buildings at 49 and 51 and erection of 5no detached dwellings at no 49 and 51. New access road.

Decision: Refused.

Decision Date: 08.01.2018

Appeal Decision: Dismissed - APP/N5090/W/17/3191245

Appeal Decision date: 19.01.2018

17/2208/OUT

Proposal: Demolition of no 51 and erection of 4no detached dwellings at no 49 and 51. New access road.

Decision: Refusal

Decision Date: 02.06.2017

16/3054/OUT

Proposal: Demolition of No 51 to facilitate new access drive and a residential redevelopment comprising 9 houses (2 detached 4x semi-detached, 3 x terraced) and a replacement garage and driveway to no 49

Decision: Deemed Refusal

Decision Date: 28.02.2017

Appeal Decision: Dismissed

Appeal Decision date: 17.02.2017

15/06599/OUT

Proposal: Demolition of No 51 to facilitate new access drive and a residential redevelopment comprising 13 houses (6 x semi-detached, 7 x terraced) and a replacement garage and driveway to No 49

Decision: Refuse

Decision Date: 01.02.2016

3. Proposal

Outline planning permission for 6 no. semi-detached houses was granted by appeal decision APP/N5090/W/20/3248645 dated 29th October 2020.

Condition 1 of that appeal decision states:

"Details of the appearance, landscaping, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved".

This current Reserved Matters application therefore seeks approval for appearance, scale and landscaping pursuant to Appeal reference APP/N5090/W/20/3248645 (outline application reference 19/5079/OUT) dated 29/10/20 for 'Erection of 6 Passive Semi-detached houses on land to the rear of 49 and 51 and provision of new access'

A number of additional plans were sought during the processing of this current application to bring it in line with the previously determined RMA application. To overcome Members previous objections drawing number BAB EL 001 Rev 1 proposes a reduction in the height and elevational bulk of the dwellings. The site section drawing numbered BAB004 Rev 4 shows these reductions in context with the topography of the land and neighbouring dwellings.

The drawings and documents being determined in this case are as follows:

Site Location Plan

BAB001 Rev 2 - Site Layout and Landscaping Plan

BAB002 Rev 3 - AIA and Habitat Plan amended version received 3/3/21

BAB004 Rev 4 (dated 12/11/2021) Site Sections (as amended)

BAB006 - Garage Plan

BAB008 Rev 1 - Double Garage Plan

BAB EL 001 Rev 1 – Plans and elevations

Tree Planting Schedule

Bauder Extensive Biodiverse Green Roof Solution Spec Details.

Design and Access Statement Millen, 12th November 2021

4. Public Consultation

Consultation letters were sent to 275 neighbouring properties.

During the processing of the application, it became apparent that the supporting documentation received from the application at validation stage was incomplete. A request was made for additional information and following the receipt of amended/additional drawings/documents a 14 day re-consultation period was carried out commencing 10th December 2021.

A total of 106 objections have been received raising the following objections to the application.

The comments can be summarised as follows:

- Restrictive covenants exist which prevent the development from being built
- Land ownership issues relating to access road
- The planning department has not acted to stop repeated applications
- The development will impact Eruvs
- The planning department has misled the Planning Inspectorate
- Overdevelopment
- Insufficient parking
- Unsafe access
- Highway safety
- Network Rail not consulted
- Footprint larger than approved layout
- Roof pitch contrived and out of character
- Excavation will harm trees
- Health and safety concerns
- There are more suitable locations than this back garden site
- Cramped, back land development and an overdevelopment of the site
- Not high quality design, will undermine architectural integrity of the host property and street scene
- Insufficient car parking

- Access road is unsafe and constrained for this volume of traffic, not sufficient for emergency vehicle access, no pavement proposed
- Access road will create excessive noise and vibration for the adjacent houses
- Overlooking / loss of privacy
- Impact on visual and residential amenity
- Noise and disturbance
- Vibration from trains passing through tunnel below the site
- Impact on wildlife
- Gated development is out of character
- geotechnical study required over a tunnel
- Third party wall concerns
- Bin-men collection procedures not agreed
- Impact on Oak tree, protected by TPO

An email was received from the Rt. Hon. Theresa Villiers MP on 1st December 2021, stating:

"I have noted the 27 objections (at the time of writing the email on 1st December 2021) to this latest application, many of which focus on the access road the developers wish to create by using an existing narrow alley between 47 and 49. It is pointed out that this service road is not owned by the developer and, while the plans suggest that there is ample space for two cars to pass each other, this is clearly not the case. An additional point made by one objector is the potential danger posed to any home owner using this service road to gain access to the rear of their properties because there is no room for a footpath or other pedestrian access.

Your records will show that I have objected to every planning application submitted for this site; and I would be grateful if you would record my further objections – and those of my constituents - to this latest application which I believe should be refused".

All the above objections, including the highway safety concerns received from the Rt. Hon. Theresa Villiers MP, are considered in the main body of this report.

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning

Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 20th July 2021. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.... being clear about design expectations, and how these will be tested, is essential for achieving this'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2021

The new London Plan which sets out the Mayor's overarching strategic planning framework for the next 20 to 25 years was adopted on the 2nd March 2021 and supersedes the previous Plan.

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5, CS9, CS9,
- Relevant Development Management Policies: DM01, DM02, DM03, DM04, DM08, DM17

The Council's approach to development as set out in Policy DM01 is to minimise the impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

Barnet's Draft Local Plan on 26th November 2021 was submitted to the Planning Inspectorate for independent examination which will be carried out on behalf of the Secretary of State for the Department of Levelling Up, Housing and Communities. This is in accordance with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2021 (as amended).

The Regulation 22 Local Plan sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. The Local Plan 2012 remains the statutory development plan for Barnet until such stage as the replacement plan is adopted and as such applications should continue to be determined in accordance with the 2012 Local Plan, while noting that account needs to be taken of the policies and site proposals in the draft Local Plan and the stage that it has reached.

Supplementary Planning Documents

Sustainable Design and Construction SPD (2016)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

Residential Design Guidance SPD (2016)

- Part 2 of the SPD sets out the general guidelines for new residential development.

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Relevant Planning History
- Scale
- Appearance
- Landscaping
- Network Rail

5.3 Assessment of proposal

- Relevant Planning History

The planning history of the site is extensive, however, for the purposes of determining this application particular reference is made to appeal decision APP/N5090/W/20/3248645, the previous Reserved Matters (RMA) application (20/6076/RMA) currently at appeal, and a recently refused application 21/5046/OUT that sought outline planning permission for the erection of 6no semi detached dwellings and 1no detached dwelling.

Appeal Decision APP/N5090/W/20/3248645

Appeal decision APP/N5090/W/20/3248645 dated 29th October 2020, Allowed an outline planning permission for the layout and access for a development of 6 no. houses.

21 conditions were attached to that appeal decision / outline planning permission which are briefly summarised as follows:

1. Reserved matters (appearance, scale, landscaping) to be submitted and approved by the LPA before any development takes place.
2. Reserved matters application to be submitted within 3 years of the date of the outline permission.
3. Development to commence within 2 years of the approval date of the last of the reserved matters.
4. The development hereby permitted shall be carried out in accordance with the following plans insofar as they relate to matters of access and layout: Location Plan; BAB001 Revision No. 9; BAB002 Revision No. 9; 9464-15.
5. No more than 6 dwellings shall be erected on the site.
6. Demolition and construction working hours.
7. Demolition and construction in accordance with approved Ecology mitigation / biodiversity enhancement report.
8. Water efficiency.
9. M4(2).
- 10 - Demolition and Construction Management and Logistics Plan (Pre-Demo).
- 11 - Tree Protection Plan (Pre-Demo).
- 12 - Land Levels (Pre-development).
- 13 - Excavations for foundations and services (Pre-development).
- 14 - Noise and vibration mitigation (Pre-development).
- 15 - Details of road junction (Pre-development).
- 16 - Acoustic fencing (Pre-occupation).
- 17 - Car parking to be laid out (Compliance).
- 18 - Electric vehicle charging facilities (Pre-occupation).
- 19 - Cycle parking (Pre-occupation).
- 20 - Refuse and recycling storage (Pre-occupation).
- 21 - Carbon dioxide emissions (Compliance).

The current reserved matters application seeks only to deal with the reserved matters required by condition 1 of the outline permission.

Separate future applications will be required in order to discharge conditions 10, 11, 12, 13, 14 and 15 before development can commence. Separate future applications will be required in order to discharge conditions 16, 18, 19 and 20 before the development can be occupied.

Previous RMA Application (20/6076/RMA)

A reserved matters application (20/6076/RMA) seeking approval for appearance, scale and landscaping has already been determined. The application was recommended for approval by Officers, subject to conditions, and refused by Planning Committee on 01st April 2021 for the following reasons:

1. *The scale of the proposed buildings, by virtue of their combined height, massing, design and siting, would result in an incongruous and discordant intervention that would fail to respect the existing pattern of development, to the detriment of the character and appearance of the surrounding area, contrary to Policy D3 of the London Plan (2021), Policy CS5 of the LB Barnet; Local Plan (Core Strategy) DPD (2012), Policy DM01 of the LB Barnet; Local Plan (Development Management Policies) DPD (2012) and Part 2 of the LB Barnet: Residential Design Guidance SPD (2016)*
2. *The scale of the proposed buildings, by virtue of their combined height, massing, design and siting, would result in an unacceptable loss of outlook and visual amenity in particular to the rear habitable rooms and garden of No 53 Beresford Avenue, to the detriment of the residential amenities of neighbouring occupiers, contrary to Policy D3 of the London Plan (2021), Policy CS5 of the LB Barnet; Local Plan (Core Strategy) DPD (2012), Policy DM01 of the LB Barnet; Local Plan (Development Management Policies) DPD (2012) and Part 2 of the LB Barnet: Residential Design Guidance SPD (2016)*

Outline Planning Application (21/5046/OUT)

Prior to the submission of this subsequent RMA application an outline application was submitted for the erection of 6no semi detached dwellings and 1no detached dwelling on land at 49 and 51 following demolition of no.51 Beresford Avenue. Details of access, appearance, layout and scale were determined with landscaping being reserved for future consideration.

A request was made for the application to be called in for a committee decision unless Officers were minded to refuse the application. The application was refused under delegated authority on 11th November 2021 for the following reasons

- 1 The demolition of No 51 would unacceptably undermine the overall architectural integrity of the host property and the wider street scene which is characterised by regular gaps and spacing between buildings. As such the proposal would be contrary to the NPPF, Policies D3, D4 and D5 of the London Plan 2021, Policies CS5 of the LB Barnet; Local Plan (Core Strategy) DPD (2012), Policy DM01 of the LB Barnet; Local Plan (Development Management Policies) DPD (2012) and the LB Barnet: Residential Design Guidance SPD (2016)
- 2 The replacement dwelling (no.51), by virtue of its close proximity to the proposed access road, would provide future occupiers a poor standard

of accommodation in terms of noise and disturbance from road traffic and pedestrian movements to and from the site. As noise mitigation measures cannot be secured along the plot frontage without causing harm to the character and appearance of the area the proposal is contrary to Policy D3 of the London Plan (2021), Policy CS5 of the LB Barnet; Local Plan (Core Strategy) DPD (2012), Policy DM04 of the LB Barnet; Local Plan (Development Management Policies) DPD (2012) and Section 2.14 of The LB Barnet: Sustainable Design and Construction SPD (2016).

Officers raised no objections to the appearance, scale and landscaping of the 6 houses so the focus of the Councils refusal reasons in this case was based on the proposed changes to the site frontage to Beresford Avenue. With the proposed demolition of No.51, and access being sought directly through the site, the application was considered contrary to policy and refused for the reasons listed above.

Scale

The term scale is defined by Article 2(1) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 as "the height, width and length of each building proposed within the development in relation to its surroundings".

Condition 4 of the outline application allowed on appeal (19/5079/OUT) states:

"The development hereby permitted shall be carried out in accordance with the following plans insofar as they relate to matters of access and layout: Location Plan;

BAB001 Revision No. 9; BAB002 Revision No. 9; 9464-15."

BAB001 Revision No. 9 is the approved Site Layout Plan

BAB002 Revision No. 9 is the approved AIA Plan

9464-15 is the approved Survey Plan/Topo Drawing.

The relevant submitted reserved matters application drawings for consideration of Scale are:

BAB EL 001 Rev 1 (dated 5/2/21) - Plans and Elevations

BAB004 Rev 4 (dated 12/11/2021) Site Sections

BAB006 Rev 1 (dated 3/3/21) - Garage Plan

BAB008 Rev 1 (dated 3/3/21) - Double Garage Plan

Width and Depth of dwellings:

The width of the proposed dwellings is consistent with the approved layout plan at 12.4m wide. The depth of the proposed dwellings is consistent with the approved layout plan at 10.8m from the front gable to the rear wall.

The width and depth of the proposed dwellings are considered to be acceptable in terms of Scale.

Appearance

Proposed Dwellings:

The elevation drawings depicted in drawing number BAB EL 001 Rev 1 have been amended since the determination of the previous RMA application refused by planning committee with the height and elevational bulk of the dwellings being reduced. These amendments were supported by Officers in the previous outline application (21/5046/OUT) refused for other planning reasons. The Officer report states:

“In terms of height, the applicant proposes to reduce the height of all 6 dwellings from 8.9 metres to 7.9metres. The consistency in the height of dwellings is fundamental to achieving good design and differences in height between proposed and existing dwellings can have a profound effect on massing, design and siting. However, in this case, the 6 houses would not be visible within the street scene and thus, do not need to slavishly conform to existing building heights. In any event, the falling land levels within the application site and proposed excavations, means that the highest point (ridge heights) of the proposed houses will be below the highest point (ridge heights) of the nearest neighbouring houses and this will be more so with the height reduction now being proposed.

In terms of Appearance, the Government attaches great importance to the design of the built environment and to achieving high quality inclusive design. This is achieved by preserving or enhancing local character and respecting the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets as required by the NPPF, London Plan, Policy CS5 of Barnet's Core Strategy DPD (2012) and Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document (2012).

In this case the proposed houses are considered to be of high quality design commensurate with the character and appearance of the area. The architectural style of each dwelling seeks to respond to the post war vernacular found within Beresford Avenue but also incorporates more modern features such as glazed gables to provide greater daylight and sunlight to habitable rooms. The dwellings will not be visible within the context of the existing street scene so the design approach adopted in this case is considered acceptable subject to a condition requiring more detailed information on the type of materials being proposed”.

There have been no material changes in or around the application site since the previous RMA application was determined. Due to the backland location of the site the proposed houses are set back from the existing street scene thereby reducing their visibility. The site section drawing numbered BAB004 Rev 4 shows the height and elevational bulk of the dwellings sitting comfortably within the context of the sites topography without causing harm to the character and appearance of the area or the amenity of neighbouring occupiers. The height and appearance of the proposed houses are considered by Officers to be acceptable and in accordance with design policy objectives for achieving high quality inclusive design.

Proposed Garages:

The width and depth of the proposed garages are consistent with the approved layout plan at approximately 10m by 5m for the 4 car garages by Plots 5&6 and Plots 1&2 and 5.5m by 5.5m for the 2 car garage by the entrance. The design of the garages is simple in form and detail and will blend in seamlessly within the proposed layout of the site.

Landscaping

"landscaping" as defined by Article 2(1) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 in relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes—

- (a) screening by fences, walls or other means;
- (b) the planting of trees, hedges, shrubs or grass;
- (c) the formation of banks, terraces or other earthworks;
- (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
- (e) the provision of other amenity features;

The landscaping drawings and documents submitted under this application (listed below) are identical to those assessed and considered acceptable by the Landscape Officer in the previous RMA application (20/6076/RMA). For completeness, the Landscape Officer has been reconsulted and is satisfied that the proposed landscaping details, which include replacement tree planting, tree protection measures and habitat measures for bats, birds and hedgehogs, are acceptable and policy compliant. A protected Oak tree (TPO/CA/233/T1) is located on the southern boundary close to the boundary with 53 Beresford Avenue. The submitted plan AIA Habitat Plan dwg no. BAB 002 shows that this tree and the tree root protection area can be excluded from the construction zone for the construction of plots 5 and 6.

BAB001 Rev 2 (dated 4/2/21) - Site Layout and Landscaping Plan

BAB002 Rev 3 (dated 3/3/21) - AIA and Habitat Plan

Tree Planting Schedule

Bauder Extensive Biodiverse Green Roof Solution Spec Details

Network Rail

There is significant history of consultation with Network Rail with the Council first making contact in July 2017. Network Rail's comments on the previous reserved matters application on 19th February 2021 are as follows:

"Thank you for the further enclosures outlining contact between the applicant and our ASPRO team. However it is noted that this is dated 2015, and is in general a generic letter outlining all of the points that need to be taken into consideration in progressing the scheme; in addition although correspondence between Mr Galloway of NR and the two owners of Nos 49 & 51 Beresford Road indicated there was no objection in principle to the development this was subject to "discussing detailed proposals" in due course. NR's representations to the 2017 planning application (17/3663/OUT) were thus made in that context, with no objection in principle subject to the need to see details of foundations &c. to ascertain the best layout/design which would not affect the tunnels beneath. Network rail also took the opportunity to alert the applicant to the existence of the hidden shaft and the need to carry out further ground investigation (under NR supervision). The assumption was that such conditions would form the basis of an approval, although it is noted that scheme was subsequently refused.

Network rail confirmed "that as they were not a party to the 2019 appeal process we did not make any representations; had we done so our position would have been that a condition relating to ground conditions & foundation detail should have been put in place to ensure such details were provided before the approval of the reserved matters. The Inspector did recognise the importance of the hidden shaft, as provided for in condition 13 of the appeal decision, and we note the written promise of the applicant to enter into an asset protection agreement to carry this forward. However without such important detail how does the applicant know that the approved layout is capable of being implemented, particularly with respect to the hidden shaft? As such we would again suggest that it is premature to agree reserved matters on scale when GI investigative works have not been carried out. It is of course a matter for the local authority as to whether to grant permission for reserved matters as it stands; we would only point out that if subsequent GI works dictate a requirement for a revised layout then a fresh planning application may be required for the scheme."

Network rail has been reconsulted as part of this application and raise similar issues as follows:

"As per our previous response we consider it premature for a layout to be sought when precise details of the hidden tunnel shaft in particular are still unknown, meaning that the submitted layout may have to change once investigations have taken place. However, we can confirm that the applicant has engaged with our Asset Protection section so as to carry out ground investigations, but it remains unclear as and when the results of such investigation will be available.

If the Authority is minded to approve the application we require a condition to be attached to any approval concerning foundation detail to be submitted and agreed in writing with the Authority in conjunction with Network Rail".

The above comments of Network Rail on the current Reserved Matters application are noted, however, as previously determined, Officers remain satisfied that Network Rail's request for a pre-commencement condition requiring a method statement relating to ground foundations and the railway tunnel shaft can be addressed by Condition 13 of the 19/5079/OUT appeal decision / outline planning permission.

If subsequent work undertaken in relation to the details required by Condition 13 of the outline planning permission do dictate that a revised layout / fresh planning

application is required then the applicant will be required to submit a separate new application at that time”.

Officers are of the view that the outcome of those investigations should not be pre-empted at this stage and are satisfied that there is no Railway related / Network Rail reason to refuse this current reserved matters application (which relates only to matters of scale, appearance and landscaping).

5.4 Response to Public Consultation

It should be noted that Outline Planning permission (access and layout) for 6 houses has already been granted by appeal decision APP/N5090/W/20/3248645 (19/5079/OUT). It is also important to note that the current reserved matters application relates only to the ‘Scale’, ‘Appearance’ and ‘Landscaping’ associated with the proposed development. Representations and comments submitted in relation to this application should therefore relate only to these matters.

It is considered that all relevant material planning considerations have been addressed in the above report. Many of the objections raised have already been considered in the previous RMA application and these are copied below. These are followed by additional objections raised in this application.

‘Responses to specific objection comments:

Restrictive covenants exist which prevent the development from being built

Response - Restrictive covenants are covered by separate legislation and are not a material planning consideration for this reserved matters application.

Land ownership issues relating to access road

Response - Land ownership matters are covered by separate legislation and are not a material planning consideration for this reserved matters application.

The planning department has not acted to stop repeated applications

Response - The applicant is entitled to submit more than one application in order to address previous reasons for refusal. The current application is a reserved matters application following the outline planning permission granted at appeal.

The development will impact Eruvs

Response - The proposal is not anticipated to have any impact on the Eruvs - in any case this is a private matter and not a material planning consideration

The planning department has misled the Planning Inspectorate

Response - The planning department has not misled the planning inspectorate. Planning Inspectorate is completely unbiased and cannot be influenced by any party. Inspectors reach their own conclusions after having assessed the appeal application.

Overdevelopment

Response - Outline planning permission has been granted for the layout of the proposed development and the LPA and Planning Inspectorate are satisfied that the proposed development is not an overdevelopment.

Insufficient parking

Response - Sufficient parking is proposed and has been approved by the outline application.

Unsafe access / Highway safety

Response - These matters were considered and approved by the outline planning permission.

Network Rail not consulted

Response - Network Rail was consulted - please see relevant section in report above. A condition has been attached see condition 13 of the appeal decision

Footprint larger than approved layout

Response - the footprint and layout is as per the approved outline permission.

Excavation will harm trees

Response - A tree protection condition is attached to the outline planning permission.

Health and safety concerns

Response - A Demolition and Construction Management and Logistics Plan condition is attached to the outline planning permission.

There are more suitable locations than this back garden site / Cramped, back land development and an overdevelopment of the site

Response - the principle of the proposed development has already been approved by the outline permission.

Not high quality design, will undermine architectural integrity of the host property and street scene / Roof pitch contrived and out of character

Response - the appearance of the proposed houses is considered to be acceptable.

Access road is unsafe and constrained for this volume of traffic, not sufficient for emergency vehicle access, no pavement proposed / Access road will create excessive noise and vibration for the adjacent houses

Response - These matters were considered as part of the outline planning permission

Overlooking / loss of privacy / Impact on visual and residential amenity

Response - No harmful loss of privacy or residential amenity will occur as a result of the proposed development

Noise and disturbance / Vibration from trains passing through tunnel below the site

Response - a relevant condition is attached to the outline planning permission

Impact on wildlife

Response - a relevant condition is attached to the outline planning permission

Gated development is out of character

Response - the gated development has been approved by the outline planning permission. Details of the gates will be required to be submitted as part of the boundary treatments condition.

Additional objections and concerns not previously raised are considered below using the same format.

Fraudulent misrepresentation of facts

Response: The Council's complaints team are currently reviewing this claim following a formal complaint being lodged by a local resident during the processing of the application.

The Council should have declined to determine the application following refusal of the previous RMA application.

Response: The Council's decision to determine this subsequent RMA application follows legal advice. The LPA has the power to decline to determine an application for planning permission if, within the last two years, either: 1. The Secretary of State has refused a similar application (which has been "called in") or has dismissed an appeal against the refusal of a *similar* application by the LPA or; 2. The LPA has refused at least two *similar* applications without either of them being appealed. In doing so, the LPA must be of the view that no significant change to the development plan (relevant to the application) or in the relevant material considerations since then. Neither situation applies in this case.

Certificate of ownership not served correctly

Response: A check of the application form identifies that the correct notification procedure has been carried out

Prior costs awards granted to Millens should be overruled

Response: The Planning Inspectorate has previously awarded the applicant costs. The Council is obliged and required to make payment.

Failure to consider the potential impact on a protected Oak tree (Mature Oak)

Response: The tree is located outside the site boundary on the south western boundary of the site. The canopy of the tree falls within the site and suitable tree protection measures are agreed by the Landscape Officer.

6. Equality and Diversity Issues

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

7. Conclusion

For all the above reasons this reserved matters application is recommended for approval, subject to conditions



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1 LOCATION PLAN
Scale: 1:1250