

**APPELLANT'S  
STATEMENT OF CASE**

**TOWN AND COUNTRY  
PLANNING ACT 1990  
SECTION 78**

**APPEAL BY S E LIVING GROUP**

**SITE AT  
100 MADEIRA AVENUE  
BROMLEY BR1 4AS**

**PINS Ref: APP/G5180/W/17/3182905**

**London Borough of Bromley Ref:  
17/02290/OUT**



**AUGUST 2017**

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## **1.0 INTRODUCTION**

- 1.1 This appeal arises out of the refusal by London Borough of Bromley to grant planning permission for the demolition of the existing dwelling and the erection of a three storey terrace comprising 2 three bedroom and 1 four bedroom houses with integral garages, access onto Madeira Avenue and associated landscaping.
- 1.2 The application was submitted on 15 May 2017 by S E Living Group.
- 1.3 The application was for outline planning permission with some matters reserved for subsequent approval. This means that details of scale, appearance and landscaping do not form part of this application. Article 7(3) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 states that an application for outline planning permission does not need to give details of any reserved matters. The LPA did not notify the Applicant that they were unable to determine it unless further details were submitted (TCP DMPO 2015 - Article 5(2)).
- 1.4 The application shows access to the site to be in the form of three individual driveways leading directly from Madeira Avenue to each of the proposed dwellings. A proposed building footprint shows the layout of the building on the site.
- 1.5 This statutory background is relevant in the present case because the application, which was recommended by Officers for approval, was refused by Members on the basis of matters relating primarily to the scale and appearance of the development proposal.
- 1.6 The parameters of the development proposal that fall for consideration in this case are provided by the development description which specifies a three storey terrace comprising 2 three bedroom and 1 four bedroom houses with integral garages with access onto Madeira Avenue. The access and layout are shown on Drawing 916:1083/PL101.
- 1.7 The other details submitted with the application are for illustrative purposes only in respect of scale, appearance and landscaping and could only sensibly be understood as having that purpose. They show one way that the proposed development can be accommodated on the site but there are other ways and the illustrative details are not definitive nor do they act as surrogate reserved matters details. They are, nevertheless, material considerations, provided to assist the decision-maker in their assessment of the potential impacts of the proposal, subject to the caveat that they should be viewed flexibly and in the context of changes that can be introduced at the reserved matters stage if such changes are considered to be necessary. The illustrative drawings should therefore not be seen as a restriction upon any decision about the acceptability of the proposal in principle.

1.8 The application was accompanied by the following plans and reports:

1. Location/Block Plan – Scale 1:500 @ A4
2. Drg. 916:1083/SK01A - Upper Ground Floor
3. Drg. 916:1083/PO101 - Lower Ground Floor
4. Drg. 916:1083/PO102 - Upper Ground Floor
5. Drg. 916:1083/PO103 - First Floor
6. Drg. 916:1083/PO104 - Roofspace
7. Drg. 916:1083/PO105 - East & West Elevations
8. Drg. 916:1083/PO106 - North & South Elevations & Section Unit 2
9. Drg. 916:1083/PO107 - Roof Plan
10. Coloured Elevation (East) to Madeira Avenue
11. Design and Access Statement – Measures Scarfe, Architects
12. Tree Survey Report – Canopy Consultancy
13. Tree Protection Plan – 16-455-TPP

1.9 The application was reported to the Council’s Plans Sub-Committee No 1 on 3 August 2017. A copy of the Officers Report that assessed the application is attached (APP1). It recommended that permission should be granted subject to conditions.

1.10 The statutory consultees raised no objection to the proposed development.

1.11 Comments were received from local residents who objected to the proposal on a number of grounds and which are summarised in the Officer’s Report.

1.12 A refusal notice was issued on 7 August 2017 with a single reason for refusal.

*“The proposal would represent a cramped overdevelopment of the site which would be out of character with the prevailing pattern of development and relate poorly to its immediate surroundings, therefore harmful to the visual amenities of the streetscene and the character of the area. Therefore, the proposal would be contrary to Policies H7 and BE1 of the Bromley Unitary Development Plan (2006), Policy 3.5 and 7.4 of the London Plan and Section 7 of the National Planning policy Framework (NPPF)”.*

1.13 The main issue in this appeal is therefore the impact of the proposed development upon the character of the surrounding area assessed in the context of Paragraph 14 of the National Planning Policy Framework (The Framework) which states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Paragraph 14 is engaged because the policies of the Bromley UDP are out of date by virtue of Paragraph 215 of the Framework.

## **2.0 SITE DESCRIPTION**

- 2.1 The appeal site is located on the eastern side of Madeira Avenue which runs, roughly in a NW-SE direction, parallel to the main A21 London Road and just to the north-west of Bromley Town Centre.
- 2.2 The Town Centre lies about 1.5km (0.93miles) distant. It is therefore within a reasonable walking and cycling distance. Around 25% of all journeys and 80% of journeys less than one mile are made on foot (Department for Transport – LTN 1/04 – Policy, Planning and Design for Walking and Cycling). Bromley Town Centre is a Regional Centre with a range of services including high quality retail, leisure, recreation, health, social and community services together with significant employment opportunities.
- 2.3 Regular day and night buses run along the A21, a short distance to the east, and main line railway stations are located at Ravensbourne (0.9km), Shortlands (1km), Bromley North (1km) and Bromley South (2km) giving access to Central London and a wide range of destinations outside of London.
- 2.4 Outdoor recreation facilities are extensively available in the local area including Beckenham Place Park with adjoining playing fields and sports grounds, Sundridge Park and Martins Hill. There are also a number of secondary, primary and nursery schools in the locality.
- 2.5 It is therefore a highly sustainable and appropriate location for new housing.
- 2.6 The site is located on the eastern side of Madeira Avenue and No 100 Madeira Avenue sits within a frontage of plot-led development that extends along its length. The surrounding area has an established residential suburban character. It includes a variety of residential buildings of differing sizes, ages and styles. There is a mix of detached, semi-detached and terraced dwellings with a variety of architectural styles and heights. It follows that there is no distinctive style of housing that gives the area a particular or special character and there is no policy designation covering the site or in the near vicinity that identifies the area as having any special character, individuality or consistency.
- 2.7 No 100 Madeira Avenue is a two-storey pre-war detached house which is formed in an L-shape, set back approximately 7.8m from the road. It sits above the road and has an integral garage at the lower ground level. The ground levels on the eastern side of Madeira Avenue slope steeply and the housing is generally cut into the bank at a high level above the road. The adjoining property to the north (No 102) is a modern detached dwelling with an integral garage at street level, first and second floor accommodation and also rooms in the roof. It therefore has accommodation on four levels. To the south No 98 Madeira Avenue is one of three detached, three-storey town houses with flat roofs and, in some cases integral garages on the lower ground floor.
- 2.8 There are also examples of semi-detached and terraced dwellings on the opposite side and further along Madeira Road and in the local area as evidenced by the DAS and the attached photographs (APP2).

2.9 The appeal site comprises the garden and site of No 100 and extends to an area of 0.087 ha. There is a Tree Preservation Order on the land but no protected trees are affected.

### **3.0 PLANNING HISTORY**

- 3.1 **05/02468** – Demolition of existing dwellings and erection of 4 storey block comprising 14 two bedroom flats with 12 undercroft and 9 open parking spaces, associated bin store and cycle parking and terraced garden at rear (at 100-102 Madeira Avenue) – Refused – 2 September 2005.
- 3.2 **06/00093** – Demolition of existing dwellings and erection of 6 four storey four bedroom townhouses with integral garages, car parking and landscaping – 100 and 102 Madeira Avenue – Refused – 5 April 2006
- 3.3 Neither of those refusals were appealed.
- 3.4 These former proposals involved the curtilages of both Nos 100 and 102 Madeira Avenue with a site area of 0.185 ha.
- 3.5 These decisions pre-date the involvement of the SE Living Group with this site but the reasons for which the refusals were issued have been taken into consideration in the preparation of their scheme. This proposes a far less intensive form and massing of buildings and this is reflected in the support of the Council's Officers for the current scheme.
- 3.6 **16/00467** – Single storey rear extensions and alterations to land levels and steps in the rear gardens of Nos. 122-124 Madeira Avenue and roof alterations to incorporate rear dormer and front rooflights to No. 122 Madeira Avenue – Granted 15<sup>th</sup> December 2016 – currently under construction being works to provide rooms in the roofspace of a terraced town house currently on three levels and located a short distance to the north of the appeal site on the same side of the road. Copy of consent and plans attached (APP 3).

## **4.0 DEVELOPMENT PROPOSALS**

- 4.1 The proposal is to redevelop the plot of 100 Madeira Avenue by the demolition of the existing house. This is a relatively ordinary detached house with a three storey protruding extension on the western side and incorporating an integral garage. It is not Listed nor does it lie within a Conservation Area or Area of Special Character. Its removal will therefore not give rise to any planning harm and there is no reason for refusal based upon the loss of this dwelling.
- 4.2 The replacement building comprises a terrace of three townhouses, each set in their own individual plot and with their own private vehicular access from Madeira Avenue onto their drive/parking space. This form of development reflects the plot-led development along Madeira Avenue and is therefore consistent with the character of the area.
- 4.3 The layout of the terrace respects the existing front building line along Madeira Avenue. The front of the building is set back 6m from the road reflecting the existing building line at No 102. The proposed footprint steps back on each side and there is then a 1-2m open gap to the side boundary. This creates a gap between the front elevation and the boundary of around 2m on the north-western side and around 3m on the south-eastern side. This produces a front elevation width of just over 13.5m compared to a plot width of 18.7m which is consistent with massing and spacing in the locality. The existing house at No 100 has a width of over 13m and is built up hard against the north-western boundary. The proposed building eases development away from the boundary by over 1m and centralises the building more within the plot but the actual built frontage is of similar proportions to the existing house.
- 4.4 To the rear No 100 currently sits about 3.4m behind the rear building line of No 102 and 1.2m in front of the rear building line of No 98. The proposed building will sit further back into the plot than the existing house but this will not have any significant impact upon the amenity or privacy of the adjoining properties, neither of which have windows to habitable rooms above ground floor level in the flank elevations adjoining No 100. A similar arrangement can be designed for the proposed houses.
- 4.5 There are existing trees and other vegetation along the boundaries between No 100 and Nos 102 and 98, some of which is located within the gardens of those properties. The footprint of the proposed building is located sufficiently away from the boundary to allow this vegetation to be retained and it can be enhanced with new landscaping.
- 4.6 Each house will have its own substantial rear garden, terraced at first and then becoming wooded towards the top of the slope.
- 4.7 The proposed siting of the building and the access arrangements to Madeira Avenue will therefore be consistent with the prevailing built form and the general character of the area. The layout will also respect the amenity of neighbouring properties and allows the retention and enhancement of boundary vegetation.



- 4.8 Matters of scale, appearance and landscaping are to be approved in due course through the submission of a reserved matters application. The illustrative details provided at this stage show one way that the accommodation can be provided in accordance with the proposed layout, access and description of development.
- 4.9 The illustrative plans show a building on four levels with an integral single garage, utility, WC and bonus room on the lower ground floor, a kitchen and reception on the upper ground floor, two en-suite bedrooms on the first floor and two further bedrooms with a family bathroom (Unit 2) or one bedroom, study and shower (Units 1 and 3) in the roofspace area. The roofspace area would have dormer windows to the rear and Velux windows to the front. This reflects the arrangement at No. 102 next door and the recent consent granted at No. 122.
- 4.10 All the habitable rooms face the front or the rear garden. Only secondary windows with opaque glazing are located on the flank elevations at first floor and above.
- 4.11 The building is to be designed to Access and Life Time Homes Standard and details are set out in the Design and Access Statement (DAS).
- 4.12 The DAS also explains the design philosophy for the appearance of the elevations of the proposed building. However this is not fixed and details remain to be approved at the reserved matters stage.
- 4.13 Indicative details of soft and hard landscaping are provided. The arboricultural report addresses the proposed removal of trees, which is very limited and measures to protect those trees that are to be retained. Each property will have double level terraces to the immediate rear with direct access from the main reception rooms and retaining the existing landscape features.
- 4.14 The proposed redevelopment scheme therefore:
- Addresses issues identified by earlier refusals of consent and proposes fewer dwellings and a less intensive building mass;
  - Generally respects the height and position of the existing building on the site;
  - Proposes frontage housing on individual plots reflecting the established character of Madeira Avenue;
  - Provides space about the building to allow the retention and enhancement of existing vegetation;
  - Utilises the shape of the land effectively and sensitively;

- Maintains a neighbourly relationship with adjoining properties;
- Optimises the development potential of the site consistent with maintaining the character and appearance of this sustainably located suburban residential road.
- Provide much needed family housing.
- Is at a density at the low end of the Council's own standards.

## **5.0 PLANNING POLICY**

5.1 Planning Law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

5.2 The development plan in this case comprises:

1. The London Plan (March 2016)
2. Bromley Unitary Development Plan (July 2006).

5.3 A new Local Plan for Bromley is being prepared and the Council consulted upon its proposed submission Draft Local Plan in November/December 2016. The Plan will be submitted to the Secretary of State and then tested for soundness through Examination before being adopted next year. At the present time the proposed draft policies command no material weight because they have not been tested at Examination. The reason for refusal does not rely upon any policies from the emerging Local Plan.

5.4 The Bromley UDP is out-of-date because it was adopted over 11 years ago before the issue of the Framework in March 2012. It is therefore caught by Paragraph 215 in Annex 1 of the Framework. This states that due weight should be given to relevant policies in existing plans (at March 2012) according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

5.5 It also means that Paragraph 14, fourth bullet point, of the Framework is engaged because relevant policies of the development plan are out of date.

5.6 Relevant policies from the UDP include :-

- BE1 Design of New Development
- BE7 Railings, Boundary Walls and Other Means of Enclosure
- H1 Housing Supply
- H7 Housing Density and Design
- H9 Side Space
- NE7 Development and Trees
- NE8 Conservation and Management of Trees and Woodland
- ER10 Light Pollution
- T3 Parking
- T7 Cyclists
- T18 Road Safety

Copy Extracts are attached. (APP 4)

5.7 The reason for refusal alleges conflict with UDP Policies BE1 – Design of New Development and H7 – Housing Density and Design.

5.8 Policy BE1 – expects all development proposals to achieve a high standard of design and layout. In particular it should:-

- complement the scale, form, layout and materials of adjacent buildings and areas
- not detract from the existing street scene
- provide landscaping opportunities
- respect the amenity of neighbouring buildings
- achieve sustainable design and construction
- be accessible for people with impaired mobility
- be designed to prevent crime

5.9 Policy H7 – is a criteria based policy with similar, and sometimes overlapping, criteria to those in Policy BE1 that aim to secure development of a high quality. Relevant criteria include:-

- compliance with density ranges set out in the density/location matrix at Table 4.2
- providing a mix of housing types
- the site layout, buildings and space about buildings recognise and complement the qualities of the surrounding area
- adequate amenity space is available
- off-street parking is provided
- pedestrians and cyclists are given priority
- designing out crime

5.10 The Appellant considers for reasons explained in the next section of this Statement, that their proposal is compliant with both policies H7 and BE1 of the UDP.

5.11 Relevant policies of the London Plan include:

- 3.3 Increasing Housing Supply
- 3.4 Optimising Housing Potential

3.5 Quality and Design of Housing Developments  
3.8 Housing Choice  
3.9 Mixed and Balanced Communities  
5.12 Flood Risk Management  
5.13 Sustainable Drainage  
6.9 Cycling  
6.13 Parking  
7.1 Building London's Neighbourhoods and Communities  
7.2 An Inclusive Environment  
7.3 Designing Out Crime  
7.4 Local Character  
7.6 Architecture  
7.21 Trees and Woodland  
8.3 Community Infrastructure Levy  
Copy extracts are attached (APP 5)

5.12 Bromley is within the Outer London area. Policy 2.6 of the London Plan sets out the Vision and Strategy for Outer London. Outer London has important strategic functions as a place to live and it will be important to ensure that the area continues to provide a range of housing in sufficient numbers to support its own economic success and that of Inner and Central London (paragraph 2.32).

5.13 This proposal will increase housing in a sustainable location. Map 2.4 highlights Bromley as an Opportunity Area where additional homes can be accommodated. A minimum ten year target of 6,415 dwellings and an annual target of 641 dwellings is set out in the Plan.

5.14 Policy 3.3 and the preceding text recognises the pressing need for more homes in London.

5.15 Policy 3.4 seeks to optimise housing potential taking into account local context and character and design principles.

5.16 The reasons for refusal alleges conflict with Policies 3.5 and 7.4 of the London Plan.

5.17 **Policy 3.5 – Quality and Design of Housing Developments** – seeks to ensure that new housing developments are of the highest quality and conform to their context and to the wider environment.

5.18 **Policy 7.4 – Local Character** - requires development to have regard to the form function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings.

### **National Policy**

5.19 The National Planning Policy Framework (NPPF) was published in March 2012 and although it does not form part of the Development Plan, it is a material consideration. The following chapters are relevant:

1. Promoting a strong, competitive economy
  4. Promoting sustainable transport
  6. Delivering a wide choice of high quality homes
  7. Requiring good design
  8. Promoting healthy communities
  10. Meeting the challenge of climate change, flooding and coastal change
- Decision Taking  
Annexes

5.20 At the heart of the National Planning Policy Framework (March 2012) – “the Framework” - is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. Proposals that accord with the Development Plan should be approved without delay (Framework Paragraph 14).

5.21 There are three dimensions to sustainable development: economic, social and environmental ( Framework Paragraph 7 ). To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions (Framework Paragraph 8).

5.22 The objectives of sustainable development seek positive improvements in the quality of the built, natural and historic environment as well as in people’s quality of life, including:-

- job creation;
- net gains for nature;
- replacing poor design with better design;
- improving the conditions in which people live, work, travel and take leisure; and
- widening the choice of high quality houses.

(Framework Paragraph 9).

5.23 Paragraph 17 of the Framework sets out the twelve Core Planning Principles that should underpin decision-taking.

5.24 Section 6 of the Framework sets out guidance aimed at meeting the Government objective of delivering a wide choice of high quality homes and to boost significantly the supply of housing(Paragraph 47) LPAs should, inter alia, plan for a mix of housing and identify the size, type, tenure and range of housing that is required, in particular locations, reflecting local demand (Paragraph 50).

5.25 Section 7 of the Framework sets out guidance aimed at ensuring good design in new development. It is important to plan positively for the achievement of high quality and inclusive design for all development (Paragraph 57) and to ensure that developments, inter alia, optimise the potential of the site to accommodate development, respond to local character and history and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation (Paragraph 58).

5.26 Relevant SPG includes

LB of Bromley  
SPG1 – General Design Principles  
SPG2 – Residential Design Guidance  
London Plan  
Housing: Supplementary Planning Guidance  
(November 2012)

The Appellant has had regard to this guidance in preparing the scheme and considers that general compliance has been achieved.

**Conclusion**

5.27 It is concluded that the proposed development is in accordance with the development plan, the NPPF and Supplementary Planning Guidance.

## 6.0 PLANNING ASSESSMENT

- 6.1 This appeal falls to be considered in the context of the fourth bullet point of Paragraph 14 of the Framework. The development plan is the starting point but relevant policies of the Bromley UDP, including those referred to in the refusal notice, are out of date and Paragraph 215 and 14 of the Framework are therefore engaged. There are no "note 9" policies in this case which indicate development should be restricted and therefore planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This is a presumption in favour of the grant of planning consent through the "tilted" balance. The Appellant's Case, supported by the Council's professional officers, is that the proposal is in accordance with the policies of the Development Plan. (Officer's report final paragraph under Layout on the Character of the Area). Members opinions do not identify significant adverse impacts that would demonstrably justify an alternative view.
- 6.2 **Cramped Overdevelopment** – the Appellant does not regard this as an accurate description of the proposed development. Three dwellings are proposed on a site area of 0.087ha which is an overall density of 34.5 d.p.h. This is an average density nationally and a low density for suburban London. Table 3.2 of the London Plan – Sustainable residential quality (SRQ) density matrix indicates a density of 35-55 units per hectare for suburban areas such as this with a PTAL Rating of 1. The proposed density is therefore at the lowest end of the density scale expected of the London Plan.
- 6.3 The layout to be approved (Drg 916: 1083/P101) follows the front building line of the adjoining property No. 102 and is set back around 6m from the road. The rear building line extends deeper into the plot than the adjoining properties but not excessively so and the stagger is maintained. Amenities of neighbouring properties are respected and there is no reason for refusal alleging harm in this respect.
- 6.4 The building height is lower than the existing property.
- 6.5 There is a minimum 1-2m gap between the flank of the proposed building and the side boundary. Policy H9 of the Bromley UDP requires that for a proposal of two or more storeys in height, a minimum 1 metre space from the side boundary of the site should be retained for the full height and length of the flank wall of the building. At the front the proposed building has a gap of 2.2m (NW) and 2.8 (SE) to the side boundary narrowing to 1m (NW) and 1.9m (SE) and then widening again to 1.4m (NW) and 2.1m (SE). These distances comfortably exceed the minimum gap overall. The existing house actually abuts the NW boundary with an elevated single storey section and there is a wider gap (approx.. 5m) to the SE. The gap to the side boundary of No. 102 is 1.7m – 1.9m and to No. 98 just under 2m. The proposed layout therefore conforms to Policy H9 and reflects the gaps of the adjoining properties.
- 6.6 The width of the proposed building on the front building line is 13.5m compared to the existing building width of over 13m (behind the protruding nib of 3.5m width). The overall width of the proposed building is around 16m. The new building will be more centrally located on the plot but otherwise



demonstrates very similar proportions to the existing building in terms of width.

- 6.7 The proposal would provide ample private amenity spaces at the rear and the internal space comfortably exceeds the minimum space standards of the London Plan (which reflect National Standards). This is confirmed in the Planning Officer's report under "Amount and Standard of Accommodation".
- 6.8 On the basis of all these spatial parameters and policy distances or densities the proposed development meets, and in most cases comfortably exceeds, the minimum requirement. The spatial standards of the existing and adjoining properties are also reflected by the proposed building with no material variance in any of the relevant dimensions.
- 6.9 There is therefore no objective evidence to support the Members assertion that this proposal would be cramped or would represent an over-development of the site. They have therefore failed the test of demonstrating significant adverse impacts, measured against any of the dimensional criteria that might indicate over-development.
- 6.10 **Prevailing pattern of development** – this assertion in the reason for refusal does not appear to have any basis in evidence:-

- this is a residential development in a residential road and a residential area
- the development is plot led with individual dwellings having private drives leading directly off Madeira Avenue
- the house will be set back around 6m from the road in conformity with the existing front building line along Madeira Avenue
- there will be a short terrace of three dwellings which reflects the mix of housing types in Madeira Avenue where examples of detached, semi-detached and terraced housing can be found
- the overall width of the terrace is little more than the existing house and is articulated so that the width on the front building line is only about 13.5m – similar to many existing properties in the road.
- each dwelling will have an ample rear garden, terraced to start with and then wooded in the same way as adjoining gardens.
- side spacing is similar to adjoining properties and standards in Madeira Avenue in general
- the height of the proposed building will be lower than the existing property and the use of the lower ground floor to provide an integral garage reflects the design of adjoining town houses and other examples in Madeira Avenue.

6.11 This list of similarities and consistency with the existing pattern of development in Madeira Avenue belies the Members claim that the proposed development would be out of character with the prevailing pattern of development.

6.12 **Harmful to the visual amenities of the streetscene and the character of the area** – as demonstrated above the siting and massing of the proposed building takes its cue from the existing building, adjoining buildings and the prevailing pattern of development along Madeira Avenue. It is therefore difficult to understand in what specific way or ways Members consider that the building will be harmful to the streetscene. The relevant test goes even further than this in that any adverse impacts that are claimed to arise must significantly and demonstrably outweigh the benefits. Any harm should therefore be severe, unambiguous and clearly demonstrated. The Members limited discussion at Committee and the reason for refusal fall considerably short of fulfilling this requirement by any objective standards.

6.13 **Conflict with Development Plan** – this is a matter of judgement by assessing the proposed development against the criteria and objectives of the relevant policies. The reason for refusal suggests that there is a conflict with:-

Policies H7 and BE1 of the Bromley UDP  
Policies 3.5 and 7.4 of the London Plan

The Appellant's case is that there is no such conflict with the requirements of the policies and that the proposal can be reasonably regarded as being in conformity with the development plan.

6.14 **Policy H7** – In terms of compliance with the criteria of Policy H7:-

- (i) - the relevant range of density is 30-50 units per hectare and the proposed development is at 34.5 u.p.h
- (ii) - the proposal provides 3 and 4 bedroom family accommodation consistent with the character of the local area but in the wider Bromley area most new development is in the form of flats and there is a shortage of new family housing
- (iii) - as explained above the proposal reflects and complements the qualities of the surrounding area quite closely
- (iv) - private amenity space is provided by rear gardens to a level that well exceeds Minimum Space Standards and is a conventional arrangement in terms of the plot-led character of the street
- (v) - 2 off-street parking spaces are provided for each dwelling and meet maximum parking standards. No highway objections are raised and walking, cycling and public transport are viable choices for most journeys

6.15 It is considered that there is therefore compliance with Policy H7.

6.16 **Policy BE1** – In terms of compliance with the criteria within Policy BE1:-

- (i) - as explained above the proposed building does complement the form and layout of the adjacent buildings and there is no reason why scale and materials cannot be suitably addressed at reserved matters stage.
- (ii) - the layout and access arrangements are fully compatible with the characteristics of the streetscene. The illustrative elevations show a building that will blend satisfactorily into the streetscene but adjustments can be made at reserved matters stage, as required.
- (iii) - there is adequate space about the proposed building to achieve retention of existing boundary vegetation and to allow new planting. The space around the new building will generally reflect and exceed that which is characteristic of other buildings in the road.
- (iv) - Daylight and sunlight penetration will be ensured, consistent with the character of the area.
- (v) - The amenities of neighbouring properties will not be unduly affected.
- (vi) - Sustainable design and construction methods will be part of the details submitted at the reserved matters stage.
- (vii) - as explained in the DAS, the building can be designed to comply with the Life Time Homes Standard and to accommodate mechanical means of addressing the challenging topography of the site.
- (viii) - there are no public areas within the proposal and security and crime prevention is achieved by the access and layout arrangements.
- (xi) - the submitted DAS sets out the design principles and the relationship of the development to its wider context.

6.17 It is therefore considered that there is compliance with Policy BE1.

6.18 **London Plan Policy 3.5** – Strategic Objective A is expressed in general terms but the redevelopment of this site meets those objectives and there is no local policy or local justification to prevent the redevelopment of this private garden. Indeed piecemeal redevelopment of pre-war housing along Madeira Avenue, particularly on the eastern side, has occurred extensively in the past and has created the mixed character that exists today. Objective B is met in terms of access and layout, as explained above and the proposed houses will provide

family accommodation that provides a good environment for children. The building will be designed to Life Time Homes Standard and is therefore potentially accessible in terms of Objective C.

6.19 It is therefore considered that there is compliance with Policy 3.5.

6.20 **London Plan Policy 7.4** – in terms of compliance with the criteria within Policy 7.4 :-

- The proposed development has regard to the pattern and grain of Madeira Avenue and a building of an appropriate scale, proportion and mass can be designed upon the approved footprint.
- The proposal acknowledges and takes advantage of the topography and landform of Madeira Avenue with taller buildings on the eastern side and lower ones on the western side. As illustrated by the submitted photographs (APP 2) there are a number of examples in this road of buildings with accommodation on lower ground, ground, first floor and roofspace, including No. 102 next door.
- The proposed building conforms to the existing streetscene and reflects the existing relationship between frontage buildings and the street.
- There are no existing buildings of outstanding quality or visual prominence in Madeira Avenue that would be affected by the proposed development.
- There is no local historic environment that would be affected by the proposed development.

6.21 It is therefore considered that there is compliance with Policy 7.4.

### **Conclusions on the Development Plan**

6.22 This detailed analysis, applying the criteria of the policies of the development plan to the proposed development, demonstrates that a high level of conformity with the policies will be achieved. This conclusion is shared by the Council's professional Planning Officers as evidenced by the Officer's Report that recommends the grant of consent. The reason for refusal is not soundly based on objective evidence and analysis. On the contrary it is a reasonable conclusion, based upon the above analysis of the relevant policy criteria, that the proposal is in conformity with the policies of the development plan and planning consent should be granted. Furthermore, no obvious adverse impacts have been identified that would outweigh the benefits of the proposal.

### **Benefits**

6.23 There are Economic, Social and Environmental benefits that make this a sustainable development proposal.

6.24 **Economic** – the development will contribute to building a strong economy, both nationally and locally.

- (i) - Creation of jobs – direct and indirect jobs in the construction process and support of permanent jobs in the local area through increased residential expenditure
- (ii) - Economic Output – additional GVA will be created from direct and indirect jobs
- (iii) - Construction value
- (iv) - First Occupation Expenditure
- (v) - Annual resident expenditure within local shops and services
- (vi) - New Homes Bonus
- (vii) - Additional Council Tax revenue

6.25 This contribution to economic growth is significant, even more so when assessed on a cumulative basis with other small developments across the Borough which, collectively, provide a large proportion of economic development activity in Bromley.

6.26 The development will be carried out by a small building firm and this will assist in meeting Government objectives to support the small/medium builder sector of the national economy. This was extensively lost during the recession and the Government is keen to encourage this sector of the industry in order to achieve higher levels of economic development growth than can be achieved by large development companies alone.

6.27 **Social** – the proposed development will provide two additional houses to contribute to the Government’s objective to boost significantly the supply of housing. Although this is a small number it should not be underestimated because collectively windfall developments such as this provide much of the housing provision in the Borough (Bromley UDP Paragraph 4.9). Maintaining a flow of windfall sites is therefore very important to the delivery of new housing in the Borough and significant weight should be attached to each contributing development proposal.

6.28 London desperately needs more homes (London Plan Paragraph 3.13). Policy 3.3 of the London Plan seeks to increase housing supply in recognition of the pressing need for more homes in London. Policy 3.4 of the London Plan seeks to optimise the housing potential for each site. The contribution that this development proposal will make towards addressing these problems should be given considerable weight in favour of the grant of consent.

- 6.29 There is a particular need for more family housing in Bromley where much of the new housing provision is in the form of smaller flats which are not ideally suited to occupation by families. The benefit of providing family housing should be given weight in this case.
- 6.30 At a personal level the owners of the appeal property, which was built in 1936, are finding it energy inefficient and increasingly difficult to maintain. The internal arrangement of the accommodation is unsatisfactory due to the unusual L shape and lack of depth. They will therefore benefit from the opportunity to purchase a more commodious and energy efficient home.
- 6.31 The existing house is not "disabled" friendly and its replacement with three new houses, built to Life Time Homes Standards will add to the currently limited stock of accessible dwellings within the Borough. This is a further social benefit that should be given commensurate weight.
- 6.32 **Environmental** – no important trees will be lost and most existing vegetation will be retained. The rear gardens will be largely unaffected and will retain their wildlife value. The existing environment will therefore be maintained and there are opportunities for enhancement of biodiversity through new landscaping, to be approved as one of the reserved matters.
- 6.33 The new house will be designed to the latest standards of energy efficiency and carbon dioxide reduction. This is compatible with using natural resources prudently and moving to a low carbon economy. These are benefits in terms of improving the environmental quality of the housing stock overall and removing the existing energy inefficient dwelling.
- 6.34 The development will therefore extensively meet the objectives of Paragraph 7 of the Framework by contributing to building a strong, responsive and competitive economy, supporting growth and innovation, creating a high quality built environment with accessible local services that reflect the local community's pressing need for more housing, particularly family housing, protecting and enhancing the natural environment, improving biodiversity, using natural resources prudently and helping to move to a low carbon economy.
- 6.35 The proposed development will therefore perform a material role in the achievement of each of the three dimensions to sustainable development and also the specific objectives set out in Paragraph 9 of the Framework.
- 6.36 The sustainability of the proposed development and substantial compliance with the policies of the Framework are compelling material considerations that weigh in favour of the grant of planning consent in this case. There are important benefits that should not be easily dismissed in the overall planning balance but, from their limited discussion at Committee, the benefits have not been properly considered or given appropriate weight by Members in reaching their decision to refuse consent.

## **7.0 CONCLUSIONS**

- 7.1 This is a development proposal that has been carefully prepared to reflect the proportions of the existing dwelling on the site, those of the neighbouring properties and others on the eastern side of Madeira Avenue. It aims to make effective use of the unusual local topography and to optimise the development potential of the site consistent with the character and context of its surroundings. The series of photographs and referenced properties set out in this Statement confirm that a building that fits well within the streetscene and reflects the character of the area, providing three town houses on the site, can be satisfactorily accommodated.
- 7.2 The application is in outline with only access and layout to be determined at this stage. The plot-led form of development with individual driveway access to Madeira Avenue is consistent with other development along the road.
- 7.3 The building footprint to be approved conforms to the existing front building line, leaves more than minimum side space and the limited extension behind the rear building line does not have a prominent or intrusive impact upon the streetscene or unduly harm the amenities of neighbouring property.
- 7.4 The illustrative drawings show one way that the proposed dwellings can be accommodated on site in terms of a height and massing that reflect the existing dwelling and other buildings on this side of Madeira Avenue. However, these drawings are not prescriptive of the final design of the building in terms of scale, appearance and landscaping – each of which will require to be approved as reserved matters.
- 7.5 The proposal is supported by the Council’s professional Planning Officers and there is no objection raised by statutory consultees. The extensive areas of agreement, outwith the reason for refusal, are set out in the accompanying Draft Statement of Common Ground.
- 7.6 The narrow area of disagreement raised by the reason for refusal has been carefully appraised and assessed in this statement. The Council’s claim that the proposed development would be out of character with the prevailing pattern of development, relate poorly to its immediate surroundings and therefore be harmful to the visual amenities of the streetscene and the character of the area, is misconceived. This Statement demonstrates that the Council’s position is not supported by any objective application of spatial standards or comparison with existing development along the eastern side of Madeira Avenue.
- 7.7 As set out in this Statement it is the Appellant’s position that their proposed development conforms to the criteria set out in the relevant development plan policies and it provides further family housing at a density at the low end of the range expected by the policies of the development plan. It therefore is in accordance with the development plan. It is also in compliance with the policies of the Framework, viewed as a whole. In these circumstances planning law requires that planning consent should be granted because there are no material considerations that indicate otherwise.

- 7.8 In the alternative, the application should be determined in the context of the fourth bullet point in Paragraph 14 of the Framework. Planning consent should be granted unless any adverse impacts of doing so would significantly and demonstrably, outweigh the benefits, when assessed against the policies in the Framework viewed as a whole. The adverse impacts alleged by the Council Members are demonstrated by the analysis set out in this Statement to be merely vague, generalised and inaccurate assertions about the impact of the proposed dwelling that are unsupported by objective assessment.
- 7.9 There are extensive Economic, Social and Environmental benefits arising from the proposed development and the main ones are identified at Paragraphs 6.23 – 6.33 above. These benefits outweigh any adverse impacts identified in this case, particularly in the context of the “tilted” balancing operation required by Paragraph 14 of the Framework. This is a sustainable development proposal which should have been welcomed and approved by Council Members, in accordance with the recommendation of their Officers.
- 7.10 The Inspector is therefore respectfully requested to allow this appeal and grant outline planning permission for the development subject to conditions that, inter alia, require the submission and approval of reserved matters of scale, appearance and landscaping.



**LIST OF APPENDICES  
ACCOMPANYING APPELLANT'S STATEMENT OF CASE**

- APP 1 - Officers' Report to Plans Sub-Committee 3 August 2017
- APP 2 - Photographs of housing in Madeira Avenue
- APP 3 - Consent notice and plan for roof accommodation at 122 Madeira Avenue
- APP 4 - Bromley UDP (2006) – Policy Extracts
- APP5 - London Plan (2016) – Policy Extracts