
Appeal Decision

Site visit made on 31 October 2016

by Daniel Hartley MTP MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 November 2016

Appeal Ref: APP/D5120/W/16/3155065
21 Upperton Road, Sidcup, Kent DA14 6BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Hemant Abhyankar against the decision of the Council of the London Borough of Bexley.
 - The application Ref 16/00059/FUL, dated 13 January 2016, was refused by notice dated 31 March 2016.
 - The development proposed is to demolish the existing double garage and utility and erect two one bedroom flats in its place, relocate the garage to the other side of the existing house and to build a new porch, garden store and conservatory for the existing house.
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Decision

1. The appeal is dismissed in so far as it relates to the demolition of the existing double garage and utility and erection of two one bedroom flats in its place. The appeal is allowed in so far as it relates to the relocation of the garage to the other side of the existing house and to build a new porch, garden store and conservatory for the existing house, and planning permission is granted for the relocation of the garage to the other side of the existing house and to build a new porch, garden store and conservatory for the existing house at 21 Upperton Road, Sidcup, Kent DA14 6BB in accordance with the terms of the application Ref 16/00059/FUL, dated 13 January 2016, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 2125UP-P-01; 2125UP-P-02; 2125UP-P-03; 2125UP-P-04; 2125UP-P-05A; 2125UP-P-06; 2125UP-P-07; 2125UP-P-09 and 2125UP-P-10.
 - 3) The materials to be used for the external surfaces of the buildings shall be as set out in the planning application forms and approved drawings.

Main Issues

2. The main issues are the effect of the proposal upon (i) the character and appearance of the area and (ii) the living conditions of the occupiers of the proposed first floor flat in respect of outlook.

Reasons

Site and proposal

3. The appeal site relates to a detached house on a corner plot within an established residential estate of dwellings.
4. It is proposed to demolish the associated existing single storey and detached double garage which is positioned on the corner of the appeal site where Upperton Road meets Langdon Shaw and to replace such development with a two storey linked detached building which would comprise two one bedroom apartments. The access to the existing garage would be retained for the parking of two vehicles in association with the proposed flats. It is also proposed to erect a porch to the front of No 21 Upperton Road, an attached single storey double garage to the side and a detached single storey garden store/conservatory in the south east corner of the rear garden.

Character and appearance

5. I have no reason to disagree with the Council's conclusions in respect of the proposed porch, garage and rear garden store/conservatory associated with No 21 Upperton Road. I do not consider that this development would look out of place in the street-scene or that it would result in material harm being caused to the living conditions of the occupiers of neighbouring residential properties. I am satisfied that this development is acceptable and that it would accord with the amenity and design aims of relevant local and national planning policies. The Council states that the garden store/conservatory would "*otherwise fall within permitted development criteria*". However, the proposal has not been submitted under Section 192 of the Town and Country Planning Act and I am not therefore considering a lawful development certificate appeal. I have therefore determined the garden store/conservatory on its planning merits and, in any event, have found that it would not cause any material harm.
6. Whilst there is an existing single storey detached garage to the side of No 21 Upperton Road, given its scale it does not appear dominant or out of place in the street-scene. It is much lower in height than the two storey development that surrounds it, and overall it appears subordinate in scale to the host dwelling. Owing to the height of the existing garage, as well as its separation from the host dwelling, a sense of space is retained to the side of No 21 Upperton Road. When looking towards the site from higher ground on Langdon Shaw there is broadly a consistent building line and the front gardens of the dwellings provide open vistas. As the garage is relatively low in height it does not radically depart from this defining characteristic.
7. In contrast to the above, the two storey apartment building would not be subordinate in scale to the host dwelling. Given its position and scale on a prominent corner plot, it would have an unacceptably dominating impact when viewed from surrounding roads. The building would be positioned on a narrow plot when compared to the surrounding dwellings which are positioned on large

plots: hence the proposed residential building would look out of place. Furthermore, when viewed from Langdon Shaw the development would unacceptably detract from the more open vistas across the front gardens of the existing dwellings. These adverse impacts would be compounded by the fact that when compared to the existing garage the two storey development would be built closer to the host dwelling (including a link) thereby resulting in an unacceptable and very long mass of development when viewed from within Upperton Road.

8. I acknowledge the appellant's comments that the proposed first floor would be set in from the ground floor of the apartment building, but this would not overcome my identified concerns. In addition, whilst I accept that not all of the dwellings in the immediate area are identical in appearance, I have nonetheless found that there is generally some consistency in terms of the size of dwellings, the pattern of development and a sense of space and openness within the aforementioned defined areas.
9. For the above reasons, I conclude that the two storey apartment building would have a significantly adverse impact upon the character and appearance of the area. Therefore, this proposal would not accord with the design and sustainability aims of Policy 3.5 of the London Plan 2016; London Housing Supplementary Planning Guidance 2016; Policies CS01 and CS06 of the Bexley Core Strategy 2012 (CS); saved Policies ENV39, H3, H8, T17 of the Bexley Unitary Development Plan 2004 (UDP); the Council's "Design for Living" Residential Design Guide Supplementary Planning Document 2006 (SPD) and the National Planning Policy Framework (the Framework).

Living Conditions

10. I have considered the relationship of the proposed apartment building with surrounding dwellings, as well as internal space provision. I do not disagree with the conclusion reached by the Council about internal space standards. Whilst the ground floor apartment would exceed minimum space standards by some margin, the first floor apartment would fall short of the London Plan 2016 minimum requirement by about 5 square metres. I do not consider that the approximate 5 square metre shortfall is significant: overall the combined space of the two apartments would exceed the minimum floorspace requirements.
11. However, and notwithstanding the above, the Council's SPD states that all new accommodation should provide a separation distance of at least 16 metres between a habitable window and a flank wall. This minimum distance would not be achieved in respect of first proposed floor windows of the apartment and the northern flank wall of No 1 The Vista. Consequently, I consider that owing to the scale and position of the flank wall of No 1 The Vista, it would have an unacceptably dominating impact when viewed from the first floor windows of the first floor apartment to the detriment of the outlook. I recognise that the affected room would be "dual aspect", but I am not persuaded that this justifies the breach of the policy.
12. For the above reasons, I conclude that the proposal would not accord with the amenity and sustainability aims of Policies ENV39 and H7 of the UDP; Policies CS01 and CS06 of the CS and the Council's SPD.

Other Matters

13. As part of my site visit, I was able to view the appeal proposal from No 1 The Vista. The development would be noticeable from the rear garden, but given the boundary vegetation and separation distance involved, I do not consider that the proposal would have an unacceptable enclosing impact upon the occupiers of the dwelling when viewed from this area. The development would, however, be more noticeable from the side path (this leads to the main entrance of the dwelling) of No 1 The Vista and from the front driveway. I consider that in these areas the development would have some enclosing impacts: this adds to the harm that I have identified in respect of the main issues.
14. I have taken into account representations made by other interested parties (including those made by the Upperton Road Residents Association). I have addressed a number of the comments made in the reasoning above. I note that some of the interested parties have concerns about traffic generation and use of the proposed access close to a junction. However, I note the comments made by the Highway Authority who raised no objection (subject to the imposition of planning conditions) to the proposal in respect of car parking provision, access arrangements and highway safety matters. On the evidence before me, I have no reason to disagree with the conclusions reached by the Highway Authority.
15. I note the appellant's reference to examples of existing apartment buildings in the locality. However, I have considered the appeal proposal on its individual planning merits and specifically in the context of the character and appearance of the immediate area. I do not consider that the existence of other apartments justifies allowing the proposal. Whilst the provision of two additional residential units would make some contribution towards the supply of housing in Bexley, the contribution from two residential units would be relatively limited and, in any event, neither this, nor any of the other matters raised, outweighs my conclusions on the main issues.

Conditions

16. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with approved plans. This is for the avoidance of doubt and in the interests of proper planning.
17. I have considered the Council's other suggested conditions, but apart from a materials condition all others relate to the proposed apartment building. This part of the development proposal is not being allowed and so such conditions are not necessary. In the interests of the character and appearance of the area, it is necessary to impose a materials condition in respect of the proposed garage and garden store/conservatory. I have amended this suggested condition in the interests of precision and clarity and in order to comply with advice in the Planning Practice Guidance.

Conclusion

18. The appeal proposal includes a number of different elements. The relocation of the garage to the other side of the existing house and the erection of a new

porch and garden store/conservatory for the existing house would be acceptable and would comply with relevant planning policies. This development is clearly severable from the remainder of the scheme, as it is physically and functionally independent. Therefore, I shall issue a split decision in this case, and allow the relocation of the garage to the other side of the existing house and the erection of a new porch and garden store/conservatory for the existing house.

19. In respect of the demolition of the existing double garage and utility and the erection of two one bedroom flats in its place, I have concluded that this would have a significantly detrimental impact upon the character and appearance of the area and the living conditions of the occupiers of the proposed first floor apartment. This is severable from the aforementioned acceptable development. Therefore, I dismiss the appeal in respect of the demolition of the existing double garage and utility and the erection of two one bedroom flats in its place.

Daniel Hartley

INSPECTOR