
Appeal Decision

Site visit made on 7 November 2016

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 21 November 2016

Appeal Ref: APP/G5180/D/16/3155890

Elm Cottage, 27 Croydon Road, Keston, Kent BR2 6EA

- 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 Messrs Charles Howard and Lucas Steadman against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/02174/FULL6, dated 28 April 2016, was refused by notice dated 4 July 2016.
 - The development proposed is a two-storey rear extension, increase in roof height to provide habitable accommodation within the roof space, enlarged front entrance porch/lobby together with elevational alterations and the demolition of the existing garage.
-

Decision

1. The appeal is allowed and planning permission is granted for a two-storey rear extension, increase in roof height to provide habitable accommodation within the roof space, enlarged front entrance porch/lobby together with elevational alterations and the demolition of the existing garage at Elm Cottage, 27 Croydon Road, Keston, Kent BR2 6EA in accordance with the terms of the application, Ref DC/16/02174/FULL6, dated 28 April 2016, subject to the conditions in the schedule to this decision below.

Application for costs

2. An application for costs was made by Messrs Charles Howard and Lucas Steadman against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

Procedural matter

3. An e-mail to the Planning Inspectorate on 15 August confirmed that the appellants' names are those that I have used in the banner heading above.

Main Issue

4. I consider the main issue in this appeal to be the effect of the proposed development on the living conditions of the occupants of 46 Forest Ridge in terms of privacy and overlooking.

Reasons

5. Situated in a mainly residential area, the appeal dwelling is a detached two-storey property. To the rear, the property has a back garden of moderate
-

- proportions, but bounded in the main with mature vegetation. Other detached houses and their gardens are adjacent to the appeal dwelling's side and rear boundaries. On a roughly L-shaped plan, due to a projecting bay of one and half storeys to its rear, the appeal dwelling includes a number of first floor windows on both its rearmost elevations and within a dormer on the bay projection's roofslope, the majority of which are fitted with transparent glazing.
6. The proposed development seeks to remodel the property, extending it at the rear across the entirety of its width to the same depth as the existing bay projection. The appeal dwelling's principal roof would be lifted with a flat crown, but hipped-slopes, to facilitate its use for living space. To the rear, four rooflights would be inserted within the roof slope. At first floor level on this rear elevation would be three windows of varying sizes; the two large windows would serve bedrooms and the smaller one would be to a bathroom. Each flank wall would also include relatively small first floor windows; one would serve a shower, and the other would illuminate the stairs.
 7. The window of 'Bedroom 4' as annotated on the 'Proposed Dwelling Plans' (KG/04/103) would be closer to 46 Forest Ridge than the existing windows, and would be transparent glass rather than obscure glazing. However, there would still be a generous separation distance between this window and the closest window of No 46. Moreover, the properties do not directly face one another, and any views from the proposed window of Bedroom 4 would be oblique, and thus not allow a substantial depth of view through the first floor windows of No 46. Views from this proposed window to the garden of No 46 and its ground floor windows would be similarly oblique, and whilst I note plans to remove a conifer hedge, the remaining mature vegetation would serve to further reduce any effects in this regard.
 8. The larger window which would serve the area annotated as 'Master Bedroom' would replace an existing window. Whilst it would be higher and larger than the existing window within the rear façade of the appeal dwelling's projecting bay it would not be materially closer to No 46. Again, given its orientation, views from the window towards No 46 would be oblique and at such a distance from the nearest windows to cause no material harm to the privacy of its occupiers. Moreover, the development would remove the dormer windows on the roofslope of the rear bay, from which, as I saw onsite, more direct views of No 46 can be glimpsed. Thus if anything, the proposed remodelling in this regard would marginally improve the privacy of the occupiers of No 46.
 9. In terms of the small window proposed for the rear elevation, this would serve a bathroom, so it would be reasonable to use obscured glazing within it. The potential for overlooking of the windows or garden of No 46 from the proposed rooflights would be severely limited due to their orientation within the roof slope and height above the floor level. Consequently, all of these matters taken together lead me to the view that the proposed development's rear fenestration pattern would cause no materially more harmful effects to the privacy of the occupiers of No 46 than the windows within the appeal dwelling's current elevations.
 10. Accordingly, as I have found that the proposed development would cause no material harm to the living conditions of the occupiers of No 46 in terms of privacy and overlooking, I can detect no conflict with Policy BE1 of the Bromley Unitary Development Plan (adopted July 2006). Amongst other things, this

Policy seeks to ensure that new development does not lead to inadequate levels of privacy for the occupiers of its adjacent properties to the detriment of their living conditions and residential amenity.

Other matters

11. Due to the orientation of the properties and the depth of separation that would be achieved, the proposed development would cause no materially harmful effects on the living conditions of the occupiers of No 46 in terms of the availability of daylight and sunlight. Neither, given the separation distance and the existing and proposed uses of the appeal dwelling, do I consider that the proposed development would result in additional noise that would be of harm to the occupiers of No 46. Whilst the rear elevation of the proposed development would be closer than that of the existing one to No 46, I consider that the sound created in the normal day-to-day residential use of No 46 would not be of such a severity as to cause material harm to the living conditions of the occupiers of the appeal dwelling.
12. I note concerns regarding the potential for overlooking from the proposed development's first floor windows in its flank elevations. However, I consider that a suitably worded condition requiring the use of obscure glazing and restricted opening would mitigate any harmful effects in this regard.
13. I note that the appeal property is currently empty and that the proposed development may enable its developers to sell it at an increased value. However, this is part and parcel of the property market, and is essentially a commercial matter, which can only be of the most minimal weight in a planning decision of this nature.
14. I have had regard to the comments that the proposed development will have a negative effect on the view from an adjacent house. However, the UK courts have consistently held that the availability of a private view is not a material planning consideration, and as a consequence this is a matter which carries no weight in my assessment of the proposal.
15. The appeal dwelling is located in the Keston Park Conservation Area. Although the proposed development would remodel the building to a certain extent it would cause no significant harm to the character or appearance of its host dwelling or to that of its surroundings. Thus the proposed development would meet the statutory test given in section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in that it would not fail to preserve the character or appearance of the conservation area.

Conditions

16. I have considered the conditions suggested in the Council's committee report against the tests given in paragraph 206 of the National Planning Policy Framework (the Framework), which states that "conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."
17. In the interests of certainty, I have attached a condition specifying the approved plans, although in a modified form from the wording suggested by the Council.

18. In order that the development is sensitive to the character and appearance of both its host dwelling and the wider surroundings, I have attached a condition requiring matching materials to be employed in its external construction.
19. Given the adjacency of the proposed first floor flank windows to neighbouring properties, I consider it necessary to attach a condition requiring obscure glazing and restricted opening in these locations. This will ensure that the proposed development is sensitive to the living conditions of the occupiers of adjacent property. However, as the permitted development right for the insertion of windows in a side elevation of a domestic property is conditional on them being either obscure-glazed, or 1.7m above the floor level, I consider it unnecessary to insert a specific condition requiring approval of any further windows on these flanks. Moreover, due to existing boundary treatments and planting between the appeal dwelling and its neighbours I consider that restricting the insertion of doors on these flanks would also be unnecessary.

Conclusion

20. The proposed development would not conflict with the policies of the development plan insofar as they have been brought to my attention. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

G J Fort

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Dwelling Plans KG/04/103; Proposed Dwelling Plans KG/04/104; Proposed Dwelling Elevations KG/04/105; Street Scene Proposed KG/04/106.
- 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building
- 4) The extension hereby permitted shall not be occupied until the windows at the first floor flank elevations have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.