

Appeal Decision

Site visit made on 4 January 2016

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 18 January 2017

Appeal Ref: APP/D5120/W/16/3160746
45 Hartford Road, Bexley DA5 1NG

- 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 Fox Bros (Bexley) Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 16/00790/FUL, dated 24 March 2016, was refused by notice dated 8 July 2016.
 - The development proposed is erection of 2 x 2 bed dwellings with associated amenity space
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Fox Bros (Bexley) Ltd against the Council of the London Borough of Bexley. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to outlook and privacy.

Reasons

4. The appeal site is located within a predominantly residential area, and comprises a car storage and sales premises. The proposal would remove the existing premises, and create two new residential units which would adjoin the existing dwelling at 43 Hartford Road.
 5. The Council's concern relates to the effect of the proposal on living conditions of neighbouring occupiers at Albert Road, which is located to the west of the appeal site, and separated from it by a pedestrian access lane. Albert Road is set at an angle to Hartford Road, meaning that the separation distances between each of the neighbouring properties and the appeal site vary.
 6. The Council's document entitled 'Design for living – Bexley's residential design guide' (SPD, January 2006) addresses all aspects of design for new residential development. Although the SPD predates the National Planning Policy Framework (NPPF), it is not superseded by it. The SPD is an adopted document which usefully amplifies the development plan policies. In seeking
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good standards of design, it is consistent with local policy and the NPPF. It is a material consideration and is to be given substantial weight.

7. The SPD seeks to ensure adequate spacing between new and existing residential developments. As a principle, it recommends that the distance between facing habitable room windows is at least 22 metres and that there are 16 metres from habitable room windows to a flank wall. I note the appellant's contention that the guidance applies only to new estate developments. However, the document specifically refers to 'small infill development'¹, and the need to show how the proposed housing will respond to the site itself and the surrounding buildings.
8. On my visit, I viewed the appeal site from the first floor bedroom window and the garden of the property at 111 Albert Road. At present, the first floor window at No 111 has an uninterrupted, open outlook above the adjacent single storey buildings. The introduction of a two-storey gabled wall, in close proximity, would intrude on the natural line of vision, resulting in an increased sense of enclosure within that property. The separation distance between the development and No 111 would be around 15m, which would be less than the recommended distance.
9. Furthermore, the garden area of No 111, which is the only outdoor space available for the dwelling, would feel significantly more enclosed by the new gable wall. The visual impact of the tall, blank wall would be harmfully oppressive to those using the garden. In the case of 109 Albert Road, which also has limited outdoor space, the separation distance would be reduced to around 13m. The development would therefore have an unacceptably harmful effect of enclosing the garden of No 109, and reducing the outlook from it. Whilst I note that the development would be at an oblique angle to the Albert Road properties, and that sunlight and daylight levels would not be unduly affected, these circumstances would not overcome my concerns.
10. In the case of 113 Albert Road, a separation distance of around 16m would be achieved, and the spatial relationship to the development would be such that the outlook from No 113 would not be materially harmed. The Council has also voiced concern regarding the impact of the proposed rear bedroom windows on the privacy of neighbouring occupants. However, the new windows would be set at an angle that would preclude any direct views between the properties, and so I do not consider that the privacy of neighbours would be unduly affected.
11. Nonetheless, drawing the above factors together, I conclude that the proposal would unacceptably harm the living conditions of neighbouring occupiers. It would therefore conflict with Policy ENV39 of the Bexley Council Unitary Development Plan (April 2004), insofar as it resists development which would prejudice the environment of the occupiers of adjacent property. It would also conflict with the requirements of the SPD, and the NPPF, which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

¹ SPD, page 7.

Other matters

12. The appellant contends that the car business is an unneighbourly land use, and so its removal would constitute a benefit to the surrounding residential area. I note that there are no planning restrictions on the use of the site. However, there is no evidence before me to suggest that the operation of the premises has been problematic to neighbours, and so I can attach only limited weight to this benefit.
13. The appeal site offers a sustainable location, and so housing development is acceptable in principle. The proposal would incorporate a number of sustainable design features, would reflect the architectural character of the area, and would make use of previously developed land. It would also contribute two dwellings to the stock of housing in the area, which is an important local and national policy objective. However, whilst these benefits are to be given modest weight, they would not outweigh the harm I have identified above.
14. I have had regard to the previous proposal for which planning permission was refused, and I note that the present scheme has been revised in the light of the issues raised. However, in view of my concerns regarding the current appeal scheme, this has not led me to a different conclusion.

Conclusion

15. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Elaine Gray

INSPECTOR