

Appeal Decision

Site visit made on 14 February 2017

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 29th March 2017

Appeal Ref: APP/G5180/W/16/3163625

8 Stephen Close, Orpington BR6 9TZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs Huang against the Council of the London Borough of Bromley.
 - The application Ref DC/16/02275/FULL6, is dated 11 May 2016.
 - The development proposed is two storey rear, first floor side with part front extensions and garage conversion.
-

Decision

1. The appeal is allowed and planning permission is granted for two storey rear, first floor side with part front extensions and garage conversion at 8 Stephen Close, Orpington BR6 9TZ in accordance with the terms of the application, Ref DC/16/02275/FULL6, dated 11 May 2016, subject to the following 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 plan: 2668-15-PL001 Rev P6.
 - 3) Unless agreed in writing by the Local Planning Authority the materials to be used for the external surfaces of the development hereby permitted shall as far as practicable match those of the existing building.

Application for costs

2. An application for costs was made by Mr & Mrs Huang against the Council of the London Borough of Bromley. This application is the subject of a separate Decision.

Procedural Matter

3. The Council resolved, at its Planning Sub-Committee on 5 January 2017, to contest the appeal on the following ground: *the proposed extension, by reason of its depth and bulk, in relation to its proximity to the boundary would constitute a dominant and unneighbourly form of development, harmful to the amenities of the adjoining neighbour at number 9 Stephen Close, and contrary to Policies BE1 and H8 of the Unitary Development Plan.*
-

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of No 9 Stephen Close, with particular reference to outlook.

Reasons

5. The appeal site is a two storey detached property located in a cul-de-sac of similar properties. The plots on which these properties are located vary somewhat in size and configuration, though those which front onto this south eastern side of Stephen Close are similarly sized broadly rectangular plots with dwellings that fill much of their widths. These properties have attached single storey flat roofed garages to one side. Additionally, the appeal property has a single storey gable roofed extension attached to the rear of its garage which projects beyond the rear building line of the property.
6. The garage side of the appeal property adjoins the boundary of the neighbouring property to the south west, No 9 Stephen Close. No 9 is built up to this adjoining boundary, leaving a narrow gap which reduces to 0.8m at the point of the single storey rear extension to No 8. The front building line of No 9 is slightly in front of the appeal dwelling. To the rear, No 9 has a single storey mono-pitch full width extension which projects to a similar position as the main rear building line of No 8, though its first floor level is set behind this meaning that the appeal property is visible, particularly in views from first floor windows.
7. The appeal proposals include a two storey rear addition which would project around 2m from the existing rear building line. This would span the width of the original ground floor of the property and be topped with a hipped roof. The existing side addition would be reconstructed to allow for a slight increase in the gap between No 8 and No 9, taking this to just over 1m. The existing garage would be converted into habitable accommodation and a further storey would be constructed over this, set slightly behind both the front building line and the original rear building line. The existing roof gable would be extended over this area. A single storey porch would be added to the front elevation.
8. This proposal follows an earlier application which was subsequently allowed at appeal.¹ Whilst similar in layout and design to the present proposals, this earlier scheme has been modified in an attempt to overcome the Council's concerns regarding conflict with the London Borough of Bromley Unitary Development Plan 2006 (the UDP) Policy H9. This policy requires proposals for two or more storeys in height to be a minimum of 1m from the side boundary for the full height and length of the flank wall of the building. It is clear that the proposed alteration of the current gap between the existing rear single storey addition and its side boundary would address this concern. Other modifications include the slight set back of the first floor side addition behind the main rear elevation and the reduction in front porch size.
9. Whilst the earlier application was refused on grounds of character and appearance, concerns about the proximity of the extensions to No 9 were considered by the Inspector who did not consider that *undue harm to outlook or light would occur or that significant loss of privacy would take place*. This finding is material to my consideration of the present case.

¹ 3151433

10. I accept that, in common with this earlier proposal, the first floor side extension would be visible in the outlook from the ground floor patio windows, first floor bedroom window and rear garden of No 9. Whilst there would be a slight increase in the furthest extent of the single storey rear extension compared with the earlier scheme, the side gap between the properties would be increased, and also the extent of the first floor side extension reduced. I also note that the roof has been designed to pitch away from the rear to minimise its mass and that the appellants have demonstrated that the first floor addition would not intersect the 45 degree line. Furthermore the Daylight and Sunlight report presented by the appellants demonstrates that due to the south east orientation of these properties, this proposal would not result in the loss of daylight or sunlight to No 9. Finally, the location of windows would mean that there would be no opportunities for additional overlooking.
11. Overall, therefore my view is that these extensions have been designed to minimise their impact on No 9, and that they would not appear overly dominant or intrusive in terms of the outlook from No 9, nor would they be harmful to other aspects of residential amenity. In this respect it would comply with the UDP Policies BE1 and H8 which require new development to respect the amenity of neighbouring occupiers, maintaining the gaps or spaces between buildings.

Other Matters

12. The Council have made reference to the objections by interested parties. I accept that the side and rear extensions would be visible to the occupiers of No 2 Marcellina Way, and reference is made to other applications in the Borough being refused due to inadequate separation. However, the degree of separation and mature vegetation between these properties would mean that there would be no harm to rear outlook, nor an unreasonable degree of overlooking, for the occupiers of this dwelling.
13. It is suggested that the front porch addition would extend the front building line and be out of character with the local area. However, my view is that there is sufficient variety in the local street scene, including other examples of front porches, such that this addition would not appear out of place.
14. Reference is made to the bedrooms in the revised scheme being below minimum standards, but no evidence is submitted to substantiate this claim. It is also suggested that an increase in the occupancy of this dwelling without the necessary parking provision could lead to issues, and that in the future this could become an HMO or two separate dwellings. However, the plans suggest that this would be occupied as a single family dwelling, and as there is off road parking provision for at least two vehicles my view is that this would be adequate.

Conditions

15. I have considered the conditions suggested by the Council against the tests set out in paragraph 206 of the National Planning Policy Framework and also the Planning Practice Guidance. A condition specifying the approved plans is required for certainty. A condition is required to ensure that the external materials used match the existing building in the interests of the character and appearance of the building and local area. The Council has also suggested a condition requiring a parking and turning area to be provided. However, as

there is no evidence to suggest that the proposal would be likely to lead to parking inconvenience or highway safety issues, I do not find it necessary to impose such a condition.

Conclusion

16. For the reasons set out above, and in the absence of material considerations to suggest that the proposal should be determined other than in accordance with the development plan, I conclude that the appeal should succeed and planning permission be granted.

AJ Mageean

INSPECTOR