

Appeal Decision

Site visit made on 19 April 2017

by G Powys Jones MSc FRTPI

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

Decision date: 3 May 2017

Appeal Ref: APP/G5180/D/17/3169847

84 Kenwood Drive, Beckenham, Kent, BR3 6QZ

- 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 Earl against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/05578/FULL6, dated 5 December 2016, was refused by notice dated 19 January 2017.
 - The development proposed is first floor side extension with roof alterations to existing garage and porch; removal of chimneys next to garage and bi-fold doors to dining room.
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Decision

1. The appeal is allowed and planning permission is granted for first floor side extension with roof alterations to existing garage and porch; removal of chimneys next to garage and bi-fold doors to dining room at 84 Kenwood Drive, Beckenham, Kent, BR3 6QZ in accordance with the terms of the application Ref DC/16/05578/FULL6, dated 5 December 2016, subject to the conditions set out in the attached Schedule.

Main issue

2. The main issue is the effect of the proposed development on the character and appearance of the host property and its surroundings.

Reasons

3. The Council relies on design-related policies, but its objection is principally based on its interpretation and application of saved policy H9 of the London Borough of Bromley's Unitary Development Plan (2006) (UDP). This policy provides (*in part*):

When considering applications for new residential development, including extensions, the Council will normally require the following:

(i) 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;

4. The policy's rationale or objectives is set out in the accompanying explanatory text:

The Council considers that the retention of space around residential buildings is essential to ensure adequate separation and to safeguard the privacy and amenity of

adjoining residents. It is important to prevent a cramped appearance and unrelated terracing from occurring. It is also necessary to protect the high spatial standards and level of visual amenity which characterise many of the Borough's residential areas.

5. The appeal property is a detached two storey dwelling set on the southern frontage of a street characterised by detached dwellings of good quality. Adjoining the dwelling, and extending almost to the common boundary with the neighbouring property (No 183), is a flat roofed single storey garage. The main elements of the proposal are to build above the garage, and to introduce elevational changes at the front. With regard to some of the proposed elevational changes proposed, the Council says:

The proposed alteration to the front porch and elevational alterations comprise a gable fronted pitched roof above the existing porch and a pitched roof to the existing flat roofed side extension. The pitched roof to the existing side extension would follow the same line as the existing pitched roof to the single storey front element of the property and is considered to be in keeping with the existing dwelling. In addition, the front gable ended pitched roof above the existing porch would also respect the existing proportions and design of the application property and would not result in any harm to the character and appearance of the street scene nor to the amenities of the neighbouring properties.

6. I share that assessment. However, whilst the first floor's flank wall would be set approximately 1.5m from the side boundary, the existing flank wall on the ground floor would remain at about 0.4m from the side boundary. Thus, says the Council, the proposed extension would fail to comply with the full requirements of UDP policy H9. Consequently, in its view, the development would appear cramped, harmful to the host property and the street scene.
7. The *National Planning Policy Framework* (the Framework) provides that the government attaches great importance to the design of the built environment. It also says, at paragraph 59, that '*design policies should avoid unnecessary prescription.*' I consider UDP policy H9 to be empirically prescriptive as is the Council's interpretation of its requirements, unnecessarily so in my view, not least since the objectives of the policy are capable of being achieved by subjective assessment. Accordingly, in the context of the Framework's paragraph 215, I attribute more weight to the design guidance of the Framework as a material consideration, and to other design-related UDP policies, than the empirical constraint set out in UDP policy H9, albeit that the latter is part of the development plan to which I must have regard.
8. Moreover, the presence of the term '**normally**' in the body of UDP policy H9 strongly implies, to my mind, a need for discretion in the application of the empirical requirements of the policy, having regard to several factors including the characteristics of the site and its surroundings, the precise nature of the proposal and the objectives of the policy as set out in the explanatory text.
9. Having regard to the explanatory text to UDP policy H9, the amenity of adjoining residents would be safeguarded, as the Council acknowledges. Given the set-back proposed and the roof's design, the first floor extension would be perceived as subservient to and proportionate in scale to the host property. The degree of separation proposed between dwellings at first floor level, means that the perception of a '*terracing*' effect would not arise. Neither, for the same reason, would the development appear cramped. I share the appellant's view that the proposal is well-designed, and that the development, since it effectively replaces or modifies a visually disharmonious flat roofed structure,

would result in an enhancement in the street scene. Finally, as the appellant has correctly pointed out, the proposed spacing between the appeal property and No 183 would closely reflect that between the other detached dwellings to the east of the property along this frontage. Thus, it would not prove uncharacteristic of local development forms and layout.

10. I conclude that the proposed development would sit acceptably in its visual context without harming the character and appearance of the host property or its surroundings. Accordingly, no material conflict arises with those provisions of UDP policies BE1 & H9 requiring development, including extensions, not to detract from the street scene or adversely impact on local character.

Conditions

11. The Council's suggested condition in respect of materials shall be imposed in the interests of visual amenity.
12. It is also necessary in the interests of certainty that the development shall be carried out in accordance with the approved plans.

Other matters

13. All other matters raised in the representations have been considered and taken into account, including the references to the planning history of the property, the *National Planning Policy Framework*, London Plan, and local design guidance, but no other matter raised is of such strength or significance as to outweigh the considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
3. The development hereby permitted shall be carried out in accordance with the following approved drawings: Drawing Nos 2854-16-PL01 Rev P3 & 2854-16-PL02 Rev P3.