

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/17/3169744

34 Hayes Chase, West Wickham, Kent, BR4 0HZ

- 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 Mrs Katie Whiteley against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/04868/FULL6, dated 20 October 2016, was refused by notice dated 20 January 2017.
 - The development proposed is a first floor side/rear extension, alterations to roof of existing single storey rear extension and elevational alterations including alterations to front porch and garage.
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Decision

1. The appeal is allowed and planning permission is granted for a first floor side/rear extension, alterations to roof of existing single storey rear extension and elevational alterations including alterations to front porch and garage at 34 Hayes Chase, West Wickham, Kent, BR4 0HZ in accordance with the terms of the application Ref DC/16/04868/FULL6, dated 20 October 2016, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. Since it more accurately describes the proposed development, I have used the Council's description of the proposal rather than that set out in the application form.
3. Arrangements had been made for me to assess the proposal from the neighbouring property, 32 Hayes Chase, which I did.

Main issue

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

Reasons

5. Judging from the planning history this is the third proposal recently refused permission for a broadly similar development. The Council this time round is satisfied, having regard to the design modifications, that one of its previous objections, that of the effect on neighbouring living conditions, particularly those of 32 Hayes Chase, has been overcome. Having visited that property, I share the Council's assessment on this score, for the same reasons as those
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set out in the officer report. Whilst not decisive in my deliberations, I note that No 32's resident is not recorded as objecting to the proposal.

6. The Council relies on several 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;

7. 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.

8. A single storey element of the appeal property's ground floor already extends to the boundary with 32 Hayes Chase. The appellant proposes building a floor above part of this. The first floor element would be set well back from the front elevation by almost 5m, and a metre or so away from the boundary. The Council says that the proposal fails the empirical test of the policy, in effect, because the extant ground floor element, which would remain in place, stands on the boundary.
9. 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.
10. 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.
11. I consider the appearance of the proposals to be well-designed and appropriately proportionate. Having regard to the explanatory text to UDP policy H9, the amenity of adjoining residents would be safeguarded, as the Council acknowledges. Given the generous set-back proposed, the first floor element of the extension would not be noticeable when viewed in oblique views from the street, and the continued presence of the existing gap at first floor level at the front, and the degree of separation at the rear 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. Moreover, as the appellant has correctly pointed out, the locality displays several examples of not dissimilar two-storey extensions to the side of houses, and the proposed would not therefore be uncharacteristic.

12. 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, H8 & H9 requiring development, including extensions, not to detract from the street scene or adversely impact on local character.

Conditions

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

Other matters

15. All other matters raised in the representations have been considered and taken into account, including the references to the *National Planning Policy Framework*, 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: The unreferenced block/location plan and Drawing No. BL/DRG/181215/3 Rev 3.