
Appeal Decision

Site visit made on 9 May 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 25 May 2017

Appeal Ref: APP/G5180/D/17/3169252

14 Cocksett Avenue, Orpington BR6 7HE

- 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 and Mrs Wright against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/04156/FULL6, dated 5 September 2016, was refused by notice dated 21 November 2016.
 - The development proposed is a single storey front extension, a two-storey side extension and elevational alterations.
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Decision

1. The appeal is allowed and planning permission is granted for a single-storey front extension, a two-storey side extension and elevational alterations at 14 Cocksett Avenue, Orpington BR6 7HE in accordance with the terms of the application, Ref DC/16/04156/FULL6, dated 5 September 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 plans: Proposed Plans & Elevations PLANNING DRAWINGS Dwg. No. PL-02; Site Plans PLANNING DRAWINGS Dwg. No. PL-03C.
 - 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 window at the first floor on the rear elevation has been fitted with obscured glazing to a minimum of Pilkington Privacy Level 3, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.

Application for costs

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

3. The description of development given on the application form reads "proposed two storey side extension, part single storey front extension". However, in the banner heading above I have used the form of words given in the description of development on the decision notice as this more comprehensively captures the scope of the appeal scheme.

Main Issues

4. I consider the main issues in the appeal to be firstly, the effects of the proposed development on the living conditions of the occupiers of 7 and 9 Beechwood Avenue in terms of outlook and natural light; and secondly, whether the proposed development makes adequate arrangements for car parking.

Reasons

Site, surroundings and proposed development

5. The appeal dwelling is a two-storey hipped roof detached property, set back from Cocksett Avenue. To one side is a garage which is attached to a similar structure in the rear garden of 9 Beechwood Avenue. The corner of 7 Beechwood Avenue's rear garden borders the rear of the appeal property's garage and the side elevation of its back garden.
6. The proposed development seeks to demolish the garage of the appeal property to facilitate the development of a two-storey, hipped roof side extension, with a roof-ridge of a similar height to that of the host dwelling. It would be set back from the host dwelling's façade, and set it from its rear elevation.

Living conditions

7. Whilst the proposed development would be of a larger scale than the existing garage at the site it would be set in further from the boundaries than that existing structure. In terms of No 9, the proposed flank wall would project over that property's existing garage and be more prominent than existing structures at the appeal site. However, the separation distance between the mooted flank wall and No 9's garden and its habitable windows, combined with the more open views available still to either side of the proposed extension mean that it would not constitute a dominant or enclosing structure that would impair the quality of outlook available to the occupants of No 9 to a material degree.
8. Moreover, I saw on site that the area of No 9's garden closest to the appeal property is already shaded by No 9's existing garage. As a consequence, I consider that the depth of separation between the proposed development and the garden of No 9, combined with the orientation of the properties mean that the degree of any additional shading to the garden would be extremely limited both in terms of its physical extent and temporal duration. As a result, in these regards, I consider that no significant harm would occur to the living conditions of the occupants of No 9 as a result of the proposed development.
9. The rear elevation of the proposed development would be located close to the bottom part of the boundary of No 7; however, there would be a greater

degree of separation between this and the existing garage at the appeal site. The proposed development would, however, be more prominent than the existing garage; and I note also that the level of No.7's garden is lower than that of the appeal site. Nevertheless, the proposed development would only be in proximity to a very limited proportion of No 7's garden, which in the main has a considerably more open and leafy aspect, predominantly bounded as it is by other residential gardens. As a consequence, due to the limited width of the proposed development adjacent to No 7's boundary, it would not constitute an unduly oppressive or overbearing structure that would enclose a substantial proportion of No 7's garden. Consequently, these considerations lead me to the view that the proposed development would not diminish the quality or amount of the outlook available from the garden or rear windows of No 7 to a significant degree.

10. I saw that existing development at the appeal site had the potential to shade the bottom corner of No 7's garden. The proposed development's scale would increase this shading to a modest degree. However, due to its orientation this would be for a limited part of the day, and only a very limited proportion of No 7's garden would be affected. Thus I consider that the proposed development's very limited effects in this regard would not cause material harm to the living conditions of the occupiers of No 7.
11. Accordingly, for the reasons given above, I consider that the proposed development would not cause significant harm to the living conditions of the occupiers of 7 and 9 Beechwood Avenue. The proposed development would thus not conflict with Policy BE1 of the Bromley Unitary Development Plan (adopted July 2006) (the UDP) insofar as it seeks to ensure that new development respects the amenity of the occupants of neighbouring buildings.
12. The proposed development would conflict with Policy H9 of the UDP in that it would not achieve a separation distance of 1m to the side boundary. However, as it is an end dwelling, and a considerable gap would exist between it and the rear elevation of 9 Beechwood Avenue it would not result in a cramped appearance, or lead to a visual 'terracing effect'. Thus these matters, combined with my findings on the lack of significant harm that would be caused to the living conditions of the occupiers of adjacent properties, justify a departure from the requirements of Policy H9 in this instance.

Parking

13. Whilst I note that Cocksett Avenue is narrow and winding, with limited on-street space available due to the highway crossovers serving several of its dwellings, at my site visit I saw that the highway crossovers serving the appeal site gave access to a large forecourt whereon two cars could be parked comfortably. I note that the Highway Authority response to the planning application commented that two spaces would be required onsite due to the relatively low public transport accessibility level rating of the site, and I consider that this could be achieved within the forecourt of the appeal property. Due to the off-street parking provision at the appeal site, I consider that the removal of the existing garage would cause no material increase in on-street parking and thus would not lead to any adverse impacts to highway safety or impair the free flow of traffic along the Avenue.
14. Thus for the reasons given above, I consider that the proposed development would make adequate arrangements for car-parking and, as a result would not

conflict with Policies T3 and T18 of the UDP. These policies, taken together, and amongst other things, seek to ensure that new developments make adequate arrangements for car-parking and do not adversely affect road safety.

Other Matters

15. The proposed development would include a window serving a bathroom on its first floor rear elevation. As this serves a bathroom it would be reasonable for it to be fitted with an obscure-glazed window, and I have attached a condition to this effect. Due to this, and the use of the proposed room which this window serves, I consider that the proposed development would cause no significantly harmful effects to the occupants of No 7 in terms of privacy. Existing boundary treatments at the site would ensure that overlooking from the rear ground floor window of the proposed development would be minimised, and again I consider that no significantly harmful effects would arise to the living conditions of the occupants of No 7 in this regard.
16. Whilst I am mindful of responses that suggest that the proposed development would extend the original house's footprint by over 50 per cent, as I have detected no harmful effects arising from it in respect of the main issues, this matter does not weigh heavily against it in the overall planning balance.
17. I note comments with regards to the potential discrepancy of some of the measurements given on the drawings; however this matter does not alter my conclusions in respect of the main issues.
18. The management of scaffolding, and removal or replacement of party wall and boundary structures are essentially private matters that do not weigh against the proposed development in the overall planning balance.

Conditions

19. I have assessed the suggested conditions supplied by the Council against the tests given in paragraph 206 of the National Planning Policy Framework (the Framework). This establishes that conditions should only be attached to permissions where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
20. In the interests of certainty I have attached a condition specifying the approved plans. In order that the proposed development is sensitive to the character and appearance of its surroundings, I have attached a condition requiring materials that match the host dwelling in its external construction. In the interests of the living conditions of the occupants of neighbouring dwellings I have also attached a condition requiring the first floor rear window to be obscure glazed, and to be retained as such.
21. 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 the flank wall. Furthermore, as there are intervening boundary structures and buildings between the proposed flank wall and neighbouring properties, the insertion of doors on this flank would not result in any material harm to the living conditions of their occupants. As a consequence, I can see no necessity

to attach a condition restricting any permitted development rights relating to the insertion of doors.

Conclusion

22. Whilst the side space achieved by the proposed development would conflict with Policy H9 of the UDP, for the reasons given above, site-specific circumstances justify a departure from the development plan in this instance. The proposed development does not conflict with the development plan insofar as the other policies that have been drawn to my attention are concerned. 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