

Appeal Decision

Site visit made on 26 June 2017

by Megan Thomas Barrister-at-Law

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

Decision date: 29th June 2017

Appeal Ref: APP/G5180/D/17/3174543

60 Eton Road, Orpington BR6 9HE

- 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 Blacher against the decision of the London Borough of Bromley.
 - The application Ref.DC/17/00057/FULL6, dated 3 January 2017, was refused by notice dated 20 March 2017.
 - The development proposed is the demolition of the existing garage and store buildings and the formation of a one bedroom annexe and attached garage.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupants of 62 Eton Road, Orpington with regard to outlook and daylight and sunlight.

Reasons

3. The appeal site is a semi-detached bungalow located on the southern side of Eton Road in Orpington. The road is residential in nature. No.62 Eton Road is the neighbouring two storey dwelling with a rear garden. There is a fence along the common boundary with the appeal site.
 4. No.60 has an existing pitched roof detached garage which is accessed from the off-road paved area in front of the property. Behind the garage there is a separate detached store with a pitched roof which is on higher ground than the garage. Behind the store there is a small greenhouse.
 5. The proposed development would involve demolishing the existing garage, store and greenhouse and constructing a garage and a single storey building attached to the garage which would have a lounge, kitchen, shower room, bedroom and hall. The proposed annexe would be about 4m wide and the proposed garage would be narrower. In total, the structure would be about 18.8m in length, but the heights would differ owing to the difference in ground levels. The building would extend materially beyond the rear elevation of the main dwelling. A gap
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between the main dwelling and the new structure would be retained, allowing access from the front forecourt to the rear garden.

6. Both the garage and the annexe would have pitched roofs. The annexe would be about 0.25m away from the common boundary with no.62 Eton Road.
7. No.62 Eton Road has a rear garden and it has one or two modestly-sized outbuildings along the common boundary. The proposed eastern elevation of the new structure would be deep at about 18.8m, and significantly deeper than the existing store on site. The annexe part of the new structure would be close to the common boundary and I consider that when the occupants of no.62 were using their garden, notwithstanding the outbuildings, the depth and proximity of the annexe would result in an unacceptable sense of enclosure for them. The height of the annexe would also be higher than the existing store and this would exacerbate the loss of outlook.
8. The gable roof design at the southern end of the annexe and the 4 proposed roof lights would add further to the bulk and visibility of the building and reinforce the presence of the building and the loss of outlook. For those reasons, I do not agree with the appellant that the resulting development would enhance the outlook from the ground floor or first floor of no.62.
9. The Council is of the view that the proposed development would cause an undue loss of daylight and sunlight for the occupants of no.62. However, the respective gardens are south facing and the garden of no.62, being to the east of no.60, would not lose anything other than marginal daylight or sunlight as a result of the development over and above existing circumstances.
10. I conclude therefore that the proposal would unacceptably harm the living conditions of the occupants of no.62 Eton Road by reason of loss of outlook. Any loss of sunlight or daylight would be very limited and not a sustainable objection to the proposal sufficient to warrant withholding permission on the basis of harm to residential amenity. The proposal would be contrary to policy BE1(v) of the London Borough of Bromley Unitary Development Plan (adopted 2006) 'UDP' in so far as it would not respect the amenity of occupiers of neighbouring property.

Other Matters

11. In addition to the alleged detrimental impact of the development on the residential amenities of the occupants of 62 Eton Road, the Council refused the application on the basis that the annexe building would have been capable of being severed and used as a separate dwelling by a different household to the one occupying the main dwelling. The Council asserted that this would have been an overdevelopment of the site. However, a condition could have been attached to a planning permission which sought to ensure that any use of the building would be ancillary to the main dwelling and to prevent its use as a separate independent dwelling. The appellant indicates that there was a willingness to accept such a condition and that that willingness was expressed to the Council. I consider such conditions to be enforceable and the model conditions in what remains extant of Circular 11/95 *The Use of Conditions in Planning Permission* include such a condition.

12. I note that policy H8 of the UDP deals with residential extensions. Paragraph 4.29 of the explanatory text to policy H8 advises that residential annexes should be designed so as to form an integral part of the main dwelling. There is an understandable desire on behalf of the local planning authority, to prevent residential annexes from being severed from the main dwelling and used as independent dwellings by a different household to the main dwelling. However, notwithstanding the guidance in paragraph 4.29, the fact that the proposed annexe in this case would not have formed an integral part of the main dwelling but would have been physically separated from it, would not, on its own, have warranted refusal of planning permission in my view. In this case, the annexe would have had a very close physical association with the main dwelling.
13. No issues of overdevelopment as a result of two separate and individual dwellings being situated on the appeal site, arise in this case.
14. Having taken into account all representations made, including the desire to have increased living accommodation at the property, for the reasons given above, I find that the harm by reason of loss of outlook outweighs the benefits of the scheme and, as such, the appeal is dismissed.

Megan Thomas

INSPECTOR