
Appeal Decision

Site visit made on 2 August 2017

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 22 September 2017

Appeal Ref: APP/D5120/D/17/3179044
73 Barnehurst Road, Bexleyheath DA7 6HA

- 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 Christopher Spence against the decision of the Council of the London Borough of Bexley.
 - The application Ref 17/00336/FUL, dated 11 February 2017, was refused by notice dated 10 April 2017.
 - The development proposed is retention of outbuilding.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 18 August 2017.

Decision

1. The appeal is allowed and planning permission is granted for an outbuilding at 73 Barnehurst Road, Bexleyheath DA7 6HA in accordance with application ref 17/00336/FUL, dated 11 February 2017 and 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 (all date stamped as received by the Local Planning Authority on 13 February 2017): Floor Plan; Front Elevation; and enlarged copy of floor plan showing construction detail.

Preliminary Matters

2. The description of the development is taken from the Local Planning Authority's (LPA) decision notice, as replicated on the appellant's appeal form, which I consider more accurately and succinctly describes what was applied for.
3. The planning application was made retrospectively. I observed that most of the structure has been constructed as per the submitted plans with just some minor elements of the roof unfinished.

Main Issues

4. The main issues in this appeal are firstly the effect of the proposed outbuilding on the living conditions of the occupiers at No.75 Barnehurst Road, with

particular reference to outlook and daylight and, secondly, the effect of the proposed outbuilding on the character and appearance of the surrounding area.

Reasons

Living conditions

5. The appeal location is characterised by residential properties whose appreciable rear gardens are orientated on an east-west axis. These garden areas are generally separated by mature planting, tall walls and fencing, all providing a notable degree of enclosure. The appeal site is situated to the south of 75 Barnehurst Road which has a two storey rear extension close to the boundary of No.73. The boundary between the gardens of Nos. 73 and 75 mainly comprises of tall vegetation except at the immediate rear of the properties including the point where the outbuilding has been constructed.
6. The outbuilding is positioned flush to the boundary of No.75 at a point a short distance from the rear elevation of the extension at No.75. The outbuilding roof is clearly visible above the boundary but I am satisfied that the intervening distance from the openings on the rear extension to No.75 means that the upper parts of the outbuilding are not overbearing in the outlook from these openings which are orientated principally over its sizeable rear garden.
7. The rear garden to No.75 contains a patio area immediately to the rear of the dwelling and lawn beyond. Whilst the roof and upper part of the brick side wall of the outbuilding would be visible from the garden of No.75 the modest height of the outbuilding above the boundary and its conical pitched roof form means there is no oppressive over-shadowing of the garden to the north. The outlook from the patio and lawn areas at the rear of No.75 closest to the outbuilding would remain predominantly towards the rest of the open rear garden.
8. I therefore conclude that the outbuilding does not have a significantly harmful effect on the living conditions of the occupiers at No.75 Barnehurst Road, with particular reference to outlook and daylight. Consequently, the proposal does not conflict with the objectives of Policy CS01 of the Bexley Local Development Framework Core Strategy Development Plan Document 2012 (the Core Strategy) and Policies ENV39 and H9 of the Bexley Unitary Development Plan 2004 (the UDP) to protect the living conditions of residents in Bexley. The proposal is also consistent with the National Planning Policy Framework (NPPF) in terms of securing a good standard of amenity for all existing occupants of land and buildings.

Character and appearance

9. The outbuilding is both of a modest scale and of a design conducive to a garden setting. It has been built to a good standard from a palette of materials which complement the residential character of the locality. The LPA submit that outbuildings are not part of the character of this area but the large detached garage nearby to the rear of 69 Barnehurst Road is clearly visible from the appeal site and elsewhere in Barnehurst Road. As such the local character does include an element of ancillary built form beyond the rear building line in this part of Barnehurst Road. The appeal proposal would

modestly add to this in a way which does not harmfully undermine the otherwise generally open character of these rear gardens.

10. I therefore conclude that the outbuilding does not have a significantly harmful effect on the character and appearance of the surrounding area. The proposal does therefore not conflict with the objective of Policy CS01 of the Core Strategy and Policies ENV39 and H9 of the UDP to maintain and improve the character of the area, including, amongst other things, through measures such as the appropriate siting, design and appearance of development. The proposal also meets the objective of the NPPF to secure high quality design.

Other Matters

11. Concern has been raised from neighbours about noise and disturbance arising from the use of the largely open-sided loggia style outbuilding. From the submitted plans and what I observed on site the structure is clearly intended to be used for barbeques and as a social space. This use is consistent with garden areas, where some domestic noise can be expected provided it does not intensify to become a statutory nuisance (which is dealt with under separate legislation). In any event I noted the size of the structure remains sufficiently small that it could not accommodate a significant number of people to either cook or gather. I also observed the enclosed nature of the rear gardens including the established boundaries which will provide an appreciable degree screening. Accordingly, I am satisfied that the use of the outbuilding would not unacceptably harm the living conditions of neighbours by reason of noise and disturbance.

Conclusion and conditions

12. For the reasons set out above, and having considered all other matters before me, I conclude that the appeal should succeed.
13. As the proposal is largely retrospective with some elements of the roof to be completed I consider a standard time limit condition remains necessary as suggested by the LPA. I also consider it necessary to impose a condition that the development is carried out in accordance with approved plans for the avoidance of doubt and in the interests of proper planning.

David Spencer

Inspector.