



Appeal Decision

Site visit made on 2 September 2019

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2019

Appeal Ref: APP/D5120/D/19/3231963

3 Westergate Road, London SE2 0DR

- 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 D Lee against the decision of the Council of the London Borough of Bexley.
 - The application Ref 18/03075/FUL, dated 2 December 2018, was refused by notice dated 8 April 2019.
 - The development is retention of balcony.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In the interests of clarity, I have used the description of development from the Council's decision notice within the banner heading above.
3. The balcony has been constructed at the appeal property. Therefore, I am considering this appeal retrospectively.

Main Issues

4. The main issues are (i) the effect of the development upon the character and appearance of the area; and (ii) the effect of the development upon the living conditions of neighbouring occupiers with particular regard to overlooking and privacy.

Reasons

Character and appearance

5. The appeal property is a two storey, detached dwelling on the eastern side of Westergate Road. The property is of a traditional design with a white painted exterior under a brown tile gabled roof. To the rear of the property, there is a single storey flat roof extension and modest garden.
 6. The surrounding area has a suburban residential character with properties of differing age and size present from the street. Whilst architectural styles vary, the properties are typically two storey and of a traditional design with external finishes including brickwork, painted render and tile hanging.
 7. A timber balcony with metal balustrading has been constructed on top of the existing rear extension at the appeal site. The balcony protrudes beyond the
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rear extension by approximately 0.8 metres and is supported by metal columns.

8. Whilst the balcony is not readily visible from Westergate Road or the wider public realm, its overall design and appearance is not in keeping with the traditional design of the host building. Despite the low height of the balustrading, the timber and metal construction of the balcony, and its elevated first floor position, creates a jarring and harsh impact, when viewed against the context of the simple white painted rear elevation of the existing building. Consequently, the development unacceptably diminishes the architectural integrity of the host building, which causes significant and demonstrable harm to the character and appearance of the area.
9. In conclusion, the development does not accord with Policy CS02 of the Bexley Core Strategy (2012) (the CS), Policies ENV39 and H9 of the Bexley Council Unitary Development Plan (2004) (the UDP) and advice relating to extensions to houses contained within the Bexley Council Unitary Development Plan Design and Development Control Guidelines (2004) (UDP DDCG), which amongst other things, require new development, including alterations to residential properties, to be of a high quality design, which respects the character and appearance of the existing building and surrounding area.

Living conditions

10. The neighbouring properties immediately to the rear of the appeal site (No's 71, 73, 75 and 77 Milford Close) and the southern side of the appeal site (No's 5, 5A, 7 and 7A Westergate Road) are in use as maisonettes. The rear garden areas of the respective properties are divided into two parts, one per each of the maisonette units. To the northern side of the appeal site, there is a single storey bungalow, known as No 1 Westergate Road.
11. The Council argue, that the balcony, by reason of its elevated position, creates detrimental levels of overlooking and thus a loss of privacy for the occupiers of No's 1, 5, 5A and 7 Westergate Road and No's 71, 73, 75 and 77 Milford Close.
12. Given the degree to which the existing upper floor windows overlook the neighbouring gardens to the rear of the site, the separation distances between the appeal site and No's 71, 73, 75 and 77 Milford Close and the height and density of the intervening mature tree screening, I consider that the development does not result in a significant loss of privacy for neighbouring occupiers to the rear of the appeal site.
13. Notwithstanding the above, the balcony permits unobstructed views from an elevated position, at a close proximity, into the neighbouring rear gardens to either side of the appeal site. Whilst I note that there is a degree of tree screening to the southern boundary of the appeal site (towards No's 5, 5A and 7 Westergate Road), the trees were deciduous and appear to be relatively young specimens with limited canopies. As such, the trees only provide a limited degree of screening to the neighbouring rear gardens in the spring and summer months, when the trees are in leaf. During the winter months, when the trees would be bare, they would provide very little screening.
14. Consequently, I consider that the development creates harmful levels of overlooking into the rear gardens of No's 1, 5, 5A and 7 Westergate Road,

which results in a significant and detrimental loss of privacy for the occupiers of the neighbouring properties.

15. The appellant's statement of case, states that it is the appellant's intention to erect obscure glazed screens to the side aspects of the balcony, which would prevent overlooking, and that such details could be secured via a planning condition. However, no indicative details of the balcony screens, such as their location, size, height or design, have been provided and therefore I am unable to assess whether the provision of such screens would mitigate the adverse impacts of the development. Consequently, the imposition of such a condition would not meet the tests set out within Paragraph 55 of the Framework.
16. In conclusion, whilst I have found that the development does not have a detrimental impact upon the living conditions of the occupiers of Nos 71, 73, 75 and 77 Milford Close, it causes significant and demonstrable harm to the living conditions of the occupiers of No's 1, 5, 5A and 7 Westergate Road. As such, the development does not accord with Policies ENV39 and H9 of the UDP and advice relating to extensions to houses contained within UDP DDCG, which amongst other things, require new development to not prejudice the environment of the occupiers of adjacent properties, which includes avoiding adverse impacts upon the privacy and amenity of neighbouring residents.

Conclusion

17. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell
INSPECTOR