
Appeal Decision

Site visit made on 10 March 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2020

Appeal Ref: APP/D5120/W/19/3242012
68 Palmeira Road, Bexleyheath DA7 4UX

- 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 Xhevat Lira of Access Building Contractors Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 19/01657/FUL, dated 5 July 2019, was refused by notice dated 3 October 2019.
 - The development proposed is the conversion of an existing house into one 2-bed apartment and two 1-bed apartments.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal has been made retrospectively. The works on-site largely reflect the appeal drawings, although there are some discrepancies which I deal with as appropriate in my decision below.
3. The Council have withdrawn the reason for refusal in relation to the provision of car parking, because of the proximity of the site to Bexleyheath Station and bus routes. I concur with this agreed position that the effect of the works on the public highway is acceptable, complying with the relevant parts of Policies T16 and T17 of the UDP, and CS14 of the Bexley Core Strategy 2012 (CS).
4. The Council have also withdrawn the reason for refusal in relation to the size of the ground floor flat (Flat A). Given that this flat is some 71 sq m gross internal area (GIA), in excess of the minimum size of 70 sq m (GIA) as set out in the Nationally Described Space Standards (the Standards), I see no reason to disagree with this position.

Main Issues

5. The two main issues in this case are:
 - the effect of the development on the ability to retain a suitable housing stock in the Borough; and,
 - whether suitable living conditions are achieved for occupiers of the flats, in particular with regard to size, layout, lack of private outside space, and outlook.

Reasons

Housing stock

6. The building has recently been extended and the previous single home has been sub-divided into three flats. The physical works have previously been granted planning permission and the appeal solely relates to the sub-division of the house, as extended, into the three flats. The extended house is approximately 177 sq m (GIA), which is the combined area of the three flats. The extension has been erected and on the evidence before me I have no reason to believe that it was not permitted by the extant planning permission. The lawful use of the property therefore remains that of a single dwelling, notwithstanding the sub-division into flats that was apparent from my site visit. Consequently, the proposal complies with the relevant parts of Policy H11 of the Bexley Unitary Development Plan 2004 (UDP), in so far as it would not result in the loss of a 'small to medium sized dwelling' in the terms of the UDP as the existing house exceeds 110 sq m (GIA).

Living conditions

7. Flat B is indicated as being a 1-bedroom, 2-person flat. The minimum size for this type of unit is 50 sq m (GIA), as set out in the Standards. However, no private outside space is provided. The London Housing SPG 2016 states that the minimum private outside space for a 2-person flat should be 5 sq m. Paragraph 2.2.32 of the SPG clarifies that where private outside space is not possible, it can be included as additional internal space to the flat. Flat B, at some 53 sq m (GIA), is smaller than the combined internal and external space standard of 55 sq m (GIA).
8. In addition, although the drawings depict a double bedroom and a study, the study is large enough to be used as a bedroom. Indeed, the study was in use as a bedroom at the time of my site visit. The minimum size standard for a 2-bedroom, 3-person flat is 61 sq m (GIA) even before calculating the additional space required to mitigate the lack of private outside space. The flat does not therefore meet the space standard for a 2-bedroom, 3-person flat, nor the standards as adjusted to account for the lack of private outside space for a 1-bedroom, 2-person flat. Therefore, however the study is used, the flat does not provide an adequate standard of accommodation.
9. Flat C is a 1-bedroom flat, set within the roofspace of the host building. Its overall floorspace is some 53 sq m (GIA). However, a proportion of this is lower than 1.5m floor-to-ceiling height. Even where the head height is not restricted by the sloped roof, it still only provides a floor-to-ceiling height of 1.9m, significantly below the minimum Standard of 2.3m. In addition, the bedroom to the flat is only provided with rooflights which only provide a limited outlook with a view upwards towards the sky. There is no private outside space for this flat, and due to its constrained nature, the quality and size of the internal accommodation does not mitigate this. This flat, therefore, does not provide an adequate standard of accommodation.
10. The appellant has highlighted that there is public open space at Danson Park and Beechwood Crescent. However, Danson Park is reasonably distant from the site, Beechwood Crescent is a fairly small piece of open land, and neither offering mitigates the lack of on-site, private open space provision for the occupants of Flats B and C. The Crook Log Leisure Centre, also highlighted by

the appellant, is a private leisure centre and as such does not mitigate the lack of on-site provision.

11. Consequently, Flats B and C do not provide suitable living conditions for their occupiers, particularly in relation to size, layout, lack of private outside space, and outlook. The proposal therefore fails to comply with the relevant parts of Policies ENV39, H6 and H11 of the UDP, and Policy CS01 of the CS. I acknowledge that there is no direct reference to quality of outlook in these policies. However, there is a clear thrust of policy support for the provision of a suitable quality of accommodation, and for the protection of the living conditions of occupiers, in new residential development, including in relation to conversions of existing houses. Paragraphs 117 and 127 of the National Planning Policy Framework reinforce this.

Other Matters

12. The appellant has stated that the units should count as valuable windfall residential development contributing to the Council's housing supply, and that the location is sustainable and therefore appropriate for higher density residential development. I agree that these factors weigh in favour of the proposal. However, any such benefit is limited given that two of the units fail to provide adequate living conditions for occupiers as outlined above.
13. The appellant has provided an example of a successful appeal for the sub-division of a house to three flats. However, I do not have the full facts before me and in any case this appeal was in a different Council and therefore subject to a different Development Plan, as well as being for different works. Therefore, the circumstances are not directly comparable with those which apply in this appeal. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me.
14. The appellant has stated that they would accept a condition to merge Flats B and C to create a duplex flat. This type of change cannot be secured by condition as it would alter the proposal too significantly away from what planning permission was sought for. I additionally note that the Council have stated that they would not support such works. This proposal cannot therefore be considered as part of the appeal.
15. The appellant has also offered to change the layout of Flat C so that the living/kitchen area is in the space with the rooflights and the bedroom has a normal window. However, no alternative layout has been provided so this is not before me to assess.

Conclusion

16. For the reasons above, I conclude that the appeal be dismissed.

O S Woodward

INSPECTOR