

Appeal Decision

Site visit made on 16 February 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2021.

Appeal Ref: APP/D5120/D/20/3261102

353 Blackfen Road, Sidcup DA15 9NJ

- 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 Mandy Jackson against the decision of the Council of the London Borough of Bexley.
 - The application Ref 20/01464/FUL, dated 27 June 2020, was refused by notice dated 19 August 2020.
 - The development proposed is described as 'this application relates to 353 Blackfen Road, a semi-detached house consisting of a lounge, kitchen, dining room, study, three bedrooms and one bathroom. Permission is sought for the construction of a ground floor rear extension'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant does not indicate that the original description of development, above, has altered. However, the appeal form does include an alternative description, which provides more detail as follows: 'The erection of a single rear extension, which will extend beyond the rear wall of the dwelling by 2.76 metres, for which the maximum height would be 3 metres, and for which the height of the eaves would be 2.8 metres. The total extension (including previous enlargements) would extend beyond the rear wall of the original dwelling by 6 metres, for which the maximum height of the total enlargement will be 3 metres, and for which the height of the eaves would be 2.8 metres'.

Main Issue

3. The main issue is the effect of the proposed extension on the living conditions of the occupiers of No 355 Blackfen Road, with regard to outlook and natural light.

Reasons

4. The appeal property is a two storey semi-detached dwelling in a residential road of mixed property types.
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5. There is an existing single storey extension to the rear of No 353, which is some three metres deep. The appeal proposal would effectively double this depth to six metres beyond the rear wall of the original dwelling.
6. The extension would be positioned close to the shared boundary with the neighbouring property, No 355. This has patio doors and side windows close to this boundary, which appear to serve the living room. The existing extension would be visible to some degree from this room and clearly also from the back garden. However, due to the additional depth, solidity and presence of the proposed extension it would appear as a much more dominant and overbearing feature seen from these nearest doors and windows, and from the garden close to the house. Consequently, the presence of the extension would result in material harm to the use of the neighbouring dwelling and garden.
7. The relative orientation of the two dwellings means that the only possible effects from overshadowing by the extension would be towards the end of the day. However, these effects would not be sufficient to result in harm to the enjoyment of their property by the neighbouring occupiers.
8. The appellant draws attention to a number of nearby extensions by way of comparison. No 351 sits further back on its plot than the appeal property and, therefore, there is a substantive amount of development beyond No 353's rear building line. However, unlike the proposed extension, this is inset from the boundary where it is closest to the neighbouring dwelling and its garden.
9. No 357 has an extension of similar depth to the current proposal. However, this means that if the proposed extension were to be built, the rear of No 355 and its garden closest to the house would be enclosed by development to either side, creating an oppressive atmosphere seen from the house and garden. Of the list of other extensions in the area, many of these pre-date current policies and in any case I am unaware of the details concerning their implementation or their relationship with neighbouring dwellings. Moreover, the proposal has been considered on its merits with regard to the particular effects it would have on neighbouring occupiers. Therefore, for these reasons, none of these other examples can be considered as precedents for the current proposal.
10. I note that neither of the neighbouring occupiers objected to the proposed extension and that those occupying No 355 indicate their intention to extend their property in the future. While I acknowledge these intentions and lack of objections, I have to take account of the circumstances on the ground as they currently exist, rather than in relation to future intentions, which may not be realised. Moreover, the permanent effects of development need to be considered in the long term with regard to current and future occupiers of neighbouring property.
11. The appellant refers to a prior notification for a larger home application for the same form of extension, where the Council indicated that prior approval was not required¹. This was required to be completed by the end of May 2019, in accordance with conditions in the relevant legislation at the time², but was not

¹ Ref 18/00378/GPDE dated 19 April 2018.

² Condition A4 of the Town and Country Planning (General Permitted Development) Order 2015 in force at that time.

implemented. As such, it cannot be considered to be a 'fallback' to the current proposal. The appellant contends that the proposal does not require planning permission and that they should have been advised accordingly. However, the fact is that a planning application has been submitted, which is the subject of the appeal before me and which I must determine on its merits. The copy of the Council's delegated report provided to me does make full mention of the successful prior notification application, contrary to the appellant's assertion that no such reference is made.

12. Accordingly, taking account of the above findings, I conclude that the proposed extension would have an unacceptably harmful effect on the living conditions of the occupiers of No 355 Blackfen Road, with regard to outlook, although there would be no such harm with regard to the effect on natural light. Consequently, it is contrary in this regard to Policies H9 and ENV39 of the London Borough of Bexley Unitary Development Plan 2004 (the UDP) insofar as they require development to not adversely affect the amenity of neighbouring occupiers; and to Policy 7.6 of The London Plan concerning architectural quality, which includes the requirement that development should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings. These policies are consistent with the National Planning Policy Framework, particularly section twelve concerning good design.
13. The appellant contends that the UDP policies do not reflect current government intentions for planning reform. However, I have found that these policies are consistent with national planning policy and no evidence is provided of the specific alleged conflict. Policies H9 and ENV39 are directly relevant to this proposal as is Policy 7.6 of The London Plan for the reasons given. While reference is made to a specific paragraph of the National Planning Policy Framework in the Council's decision notice, the decision is not dependent on this due to the primacy of development plan policies.
14. Reference is also made to policies which were included in the delegated report, but subsequently 'deleted' from the decision notice. The Council notes in the report that the main considerations are the relevant planning history, the impact on neighbouring amenity, and the impact on the character and appearance of the area. It had regard, therefore, to policies relating to these matters. However, its subsequent assessment was that the proposal should be refused on only one of them, the effect on neighbouring amenity. Accordingly, only the smaller number of policies relevant to that matter were cited on the decision notice. This is normal practice in reaching planning decisions.
15. It is not possible to infer that had the Council taken account of other policies, such as Policy G7 referred to by the appellant, it would have led to a different outcome. As such, I find nothing unusual in this approach and, on the basis of the evidence before me, there is no conflict with the case law referred to by the appellant.
16. Concerns about the Council's decision-making process and approach are outside the scope of this appeal, which only concerns the planning merits of the proposed development.

Conclusion

17. For the reasons given above it is concluded that the appeal should not succeed.

J Bell-Williamson

INSPECTOR