



Appeal Decision

Site visit made on 31 August 2021

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/D5120/W/21/3270134
318, Erith Road, Bexley Heath, DA7 6HJ

- 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 Dr D Cogger against the decision of the London Borough of Bexley.
 - The application Ref 20/02747/FUL dated 24 November 2020, was refused by notice dated 20 January 2021.
 - The development proposed is provision of external stairway, wall and railings with formation of doorway at first floor to provide a roof terrace.
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Decision

1. The appeal is allowed and planning permission is granted for external stairway, wall and railings with formation of doorway at first floor to provide a roof terrace at 318, Erith Road, Bexley Heath, DA7 6HJ in accordance with the terms of the application ref: 20/02747/FUL, dated 24 November 2021, subject to the following conditions:
 - 1) The development to which this permission relates must be begun not later than the expiration of three years, beginning with the date of this decision;
 - 2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved plans: O1 R1 of 1;
 - 3) Prior to first use of the roof terrace and external staircase thereto details and locations of privacy screens to prevent overlooking between the terrace and staircase and the gardens/houses of no.'s 316 and 322 Erith Road shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first use of the terrace and staircase and shall be maintained thereafter.

Procedural Matters

2. I have utilised the Council's description of the proposal as I find it describes the proposal more concisely.
3. Since the determination of this application the London Plan 2021 (a Replacement Plan) has been published by the Mayor. The London Plan 2016 policy referred to is no longer in force. Given the issues raised as a result of the refusal reasons and single the London Plan 2016 policy referred to it is not considered on this occasion that the publication of the London Plan directly changes the assessment of this appeal.
4. Since the determination of the application, and the submission of this appeal, a revised National Planning Policy Framework 2021 was adopted on 20 July 2021.

Given the main issues for the refusal reason, and the fact the refusal reason does not refer directly to the Framework, it is not considered that this change impacts upon the determination of this appeal.

Main Issues

5. The main issues are i) the impact of the proposal upon the character and appearance of the host building and area and ii) the impact of the proposal upon the residential amenity of neighbouring properties with regard to overlooking.

Reasons

6. Fear of a precedent is not a sufficient reason for refusal especially given that the Council's delegated report (page 2) specifically acknowledges that the principle of the development is acceptable. This is subject to an assessment of the proposal upon character and appearance of the host building and the impact on neighbour amenity i.e. actual impact. Each case must be considered on its own merits with the starting point for determination being the Local Plan as set out in s38(6) of the Planning and Compulsory Purchase Act 2004 taking into account any relevant material considerations.

Character and Appearance

7. The application site is a two-storey detached building in mixed use. The ground floor is in use as a dental surgery with residential accommodation at first floor level. The area around the appeal site is mixed in character, appearance, and use. At the time of my site visit I noted that many properties in the immediate area have been altered and extended creating a variety of styles and property types including two and three-storey development, bungalows, mixed materials, flat roof extensions and cat-slide roofs. I find the character and general appearance of the area is not realistically uniform. The Council have provided very limited assessment of the area to support how the proposal would be detrimental to the character and appearance of the area.
8. At the time of my site visit I went through the property and stood at the rear of the site within the garden. The host building has been extended in the form of two separate single storey extensions but also appears to have had side extensions. The two rear extensions are separated and of slightly different depths. I find the existing extensions already diminish the original character of the host building. The terrace would be to the rear of the host building, would be limited in views from Windermere Road and I do not find it would appear cluttered considering the existing built form which has been already added into the host building.
9. I therefore find that its impact upon the appearance of the host building and area would be limited and not sufficient to warrant refusal given both the varied character of the area and existing additions to the host building itself. I find it would be a logical route of access to the garden and would not blur garden and roof space when considering the already mixed use of the site with the dental surgery on the ground floor.
10. The proposal would be consistent with Bexley Council Unitary Development Plan 2004 (UDP) Policy ENV39 which requires consideration of the extent to which the proposal is compatible with the character of the surrounding area

and UDP Policy H3 which requires that development is compatible with the character and appearance of the surrounding area.

Overlooking

11. The boundary of the appeal site with no. 316, to the South, is a substantial solid fence and I note from the location plan (and as confirmed in the Council's report) that no. 316 has been extended in the form of a single storey rear extension nearest the boundary with the appeal site. The rear elevation of no. 316 is also further forward than that of the appeal site. The proposal would erect a brick wall on the terrace edge on this boundary. This, combined with the existing fencing and built form means that I do not find the proposal would give rise to an unacceptable degree of intrusive overlooking of the house or garden at no. 316. Additionally on both boundaries of the appeal site there is established vegetation and trees. I note the Council's comments that these could be removed, however, there is no suggestion before me that they would be by either party and they form part of the site before me.
12. No. 322, to the North, has been extended in the form of a two-storey side/rear extension which stands marginally forward of the appeal building's original rear elevation. The proposed roof terrace would extend over the larger of the two single-storey extensions, away from no. 322, which I find would leave a suitable distance between the edge of the proposed terrace and the boundary of the appeal site to the North compared to if, for example, the proposed terrace was closer to and/or immediately adjacent to the boundary. The proposal would also be set back 1m from the edge of the extension itself to further reduce visibility. The distance from the boundary, combined with the solid fencing, orientation, large gardens and established vegetation along the boundary between the appeal site and no. 322, I find limits opportunities for intrusive overlooking of the house and garden at no. 322. The proposal would not result in a harmful effect for adjoining householders.
13. I accept that the proposal could offer some limited views of neighbouring properties, however, with natural use of the staircase and proposed terrace I do not find that views afforded would be any greater than the existing, much closer, first floor windows in the host building which would actually provide much greater opportunity for overlooking than the proposal by comparison. Ultimately, if neighbouring users really wished to look into each other's gardens, for whatever reason, they could already as a result of the urban setting and development pattern. It falls to consider reasonable and natural use of the proposal which would be for access and seating etc. and I find that this, with soft screening, would result in limited opportunity for intrusive overlooking when combined with the site factors outlined above.
14. I note the comments from the Council regarding screening adding to visual clutter and mass. Despite this there are several options for screening which do not have to be high, solid, screens as perhaps alluded to. Several softer options would be just as effective and visually pleasing as well as provide relief from any perceived overlooking. This can be secured, and controlled, by condition.
15. The proposal would be consistent with UDP Policy ENV39 which requires proposals not to prejudice the environment of the occupiers of adjacent property and UDP Policy H9 which requires alterations not to adversely affect the privacy and amenity of adjoining properties.

16. The Design and Development Control Guideline 2 document is noted (2.2.3 (3)) which, whilst this is not for a new extension, is acknowledged to state that use of a flat roof as a balcony would normally be unacceptable on privacy grounds. This is guidance and use of the word normally does infer use of assessment as to actual impact upon privacy, not a blanket resistance. Given my assessment above I find the proposal is consistent with this guidance in so far as it does not result in unacceptable loss of privacy within this urban setting.

Other Matters

17. I note objections to the proposal. Noise and safety have not been raised as reasons for refusal by the Council and I have no reason to conclude differently on these matters. Impact upon property values is not a material consideration within this appeal. I have dealt with matters relating to character, overlooking and privacy earlier within this decision.

Conditions

18. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent. A condition requiring the submission of screening is required to further protect the privacy and amenity of neighbouring residents.

Conclusion

19. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR