



Appeal Decision

Site visit made on 10 November 2021

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2021

Appeal Ref: APP/D5120/W/21/3271790
104 Lion Road, Bexleyheath, DA6 8PQ

- 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 Berridge, Marbleacre Designer Homes Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 20/02499/FUL, dated 29 September 2020, was refused by notice dated 15 January 2021.
 - The development proposed is subdivision of 104 Lion Road into 4 apartments, together with a new build block of a further 6 apartments on the land to the rear, with associated access, parking and refuse storage.
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Application for costs

1. An application for costs was made by Marbleacre Designer Homes Ltd against the Council of the London Borough of Bexley. This application is the subject of a separate Decision.

Decision

2. The appeal is dismissed.

Reasons

3. The main issues in this appeal are the effect of the proposed development on
 - a) the character and appearance of the area and nearby heritage assets;
 - b) the living conditions of adjoining occupiers, with particular reference to light, privacy and outlook.

a) Character and appearance

4. The appeal site is garden land that lies behind the short terrace of Nos. 104, 106 & 106A Lion Road. The land slopes down to the west and there are a number of trees on the boundaries of the site. The terrace itself has been identified by the Council as locally listed buildings. These date from the late 19th Century and represent the early development of this part of the area. The wider locality displays variety in architecture, scale and form of housing as the street evidently evolved over time.
 5. There have been alterations to the terrace that have diminished the quality of detail on the property, and the original setting is diminished by the
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hardstanding and parking areas at the front of the properties. However, to the rear of the terrace there is a sense of openness that help retain a feeling of Victorian housing set in garden areas. The form and scale of the terrace, and its clear presence in the street as part of the original element of the area, means the properties remain an attractive group that contribute positively to the character of the street. The significance of the buildings as a heritage asset derives from this appearance as a terrace of domestic properties dating from this early period of the area.

6. There is an extant permission for conversion of 104 Lion Road to flats. The current appeal involves works to No. 104 to convert the building to flats, including the provision of a dormer on the rear roof slope and new windows to the rear elevation. The design and position of these changes are modest, and suitable additions to the building.
7. The proposed development would further see a two storey building on garden land to the rear of the terrace to contain six flats, though it would be a split-level development due to the slope of the land. This would be accessed from Lion Road, with a new access road and parking area provided alongside No. 104.
8. I consider the scale and position of this new building, when combined with the access and circulation area would lead to harm. The building would have a considerable depth, emphasised by the horizontal form of the flat-roofed building, balconies and windows. The development would be seen from Lion Road across the new access road that runs at depth to the site, opening to a car parking area.
9. There would be limited areas of undeveloped space on the site, and I concur with the Council that there is an unsatisfactory relationship between the building and that open space: the ownership and links between the building and the areas around it are loosely connected, giving the impression of a large building of flats surrounded by a perimeter of landscaping and parking. The general impression of this would be an overdevelopment of the site where an overly large building is seen in a setting with a considerable degree of hardstanding and parking. The sense of spaciousness would thus be harmed.
10. Furthermore, and of particular importance, the setting of 104 Lion Road would be changed from a dwelling of pleasant domestic appearance to being dominated by vehicular circulation space close by and in views from Lion Road; there would be an absence of any meaningful link between No. 104 and a garden area, hence diminishing its appearance. Although I have commented earlier that the physical changes to No. 104 itself would be acceptable, on balance it is my judgement that the effect of the new flats and vehicular circulation area would be harmful to the significance as a heritage asset.
11. On the first issue it is therefore concluded that the scale, siting and design of the proposed development would not lead to the creation of a high quality place, and so is contrary to Section 12 of the National Planning Policy Framework. This would lead to harm to the character and appearance of the area, which is contrary to Policies D3 and D4 of the London Plan 2021, Policy CS01 of the Bexley Core Strategy 2012 and the relevant provisions of saved Policies H8 and ENV39 of the Bexley Unitary Development Plan 2004 (UDP), whose objectives include, amongst other matters, that residential development

is of a high standard of design, and their siting, design and appearance are compatible with the character of the area. The proposals would also be harmful to the setting of the locally listed building and so conflict with Section 16 of the Framework, Policy HC1 of the London Plan and Policy CS19 of the Core Strategy that require developments to conserve the significance of heritage assets and their settings.

b) Living conditions

12. The proposed flats would be around 16m distance from the rear elevations of 104 and 106A Lion Road, and further from Nos. 106 and 102. The slope of the land means that the proposed building would be set lower than those properties.
13. This distance and the drop in levels between the existing and proposed properties mean a generally open outlook would remain to the adjoining dwellings. The appellant has also drawn my attention to the Council's adopted Design for Living Supplementary Planning Guidance (2006), which I am told seeks a distance of 16m from habitable room windows to a flank wall in order to achieve expected levels of privacy and outlook. This is a material consideration in this appeal, which reinforces my own observations.
14. The siting of the proposed flats means that the building would only be partly adjoining the garden to No. 106A. This, and the drop in levels, means there would also be no unreasonable overbearing effect to the garden of that property.
15. The proposed flats are located a sufficient distance to the properties to the west and south, when consideration is also given to the intervening trees and change in levels, to ensure no effect on outlook from those buildings.
16. The design of the proposed flats show the elevations facing east and west would have only windows serving ancillary rooms to the flats, which could be obscure glazed and hence avoid any loss of privacy. Balconies to the flats would look north and south (with screens to prevent views west or east). The distance to adjoining gardens would be sufficient to ensure that there would not be an unreasonable degree of overlooking. Although the outlook to the north towards No. 102 would be towards that property's garden, that is a very long garden and it would only be the very end where there any views are possible which, over the distance involved, would not represent a material loss of privacy to occupiers of that property.
17. The Council's reason for refusal cites a possible loss of light. However, there is no technical evidence to dispute the appellant's detailed submissions on this. Based on what I have read and seen at the site visit – seeing the distance to other properties and drop in levels – I consider there would not be any material loss of light to adjoining properties.
18. On the second main issue it is my conclusion that the proposed development would not be harmful to the living conditions of adjoining occupiers. Hence it would be consistent with the relevant provisions of saved Policies ENBV39 and H8 of the UDP insofar as they seek to ensure new residential development is not prejudicial to the environment of the occupiers of adjacent properties.

Other considerations and conclusions

19. The application was accompanied by an ecological report that found no harm to protected species or to trees. The Council raised no objection on this matter and, on the basis of the technical information I have read, I find no reason to disagree with those conclusions.
20. The Highways Authority did not object to the planning application. The proposal would make sufficient provision for car and cycled parking for the development with an access that satisfies their requirements for safe access. On the basis of evidence presented to me I am similarly satisfied that the proposed arrangements are acceptable.
21. The proposal would lead to the provision of dwellings within the settlement area and make the more efficient use of land for housing. The Framework sets out the Government's objective of significantly boosting the supply of homes, and I attach significant weight to this. I have also found the appeal would not conflict with the second main issue. However, it is my overall conclusion that the harm arising on the first main issue, and the consequential conflict with the development plan and the Framework, outweighs other considerations. The appeal is dismissed accordingly.

C J Leigh

INSPECTOR