



Appeal Decision

Site visit made on 15 March 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 MAY 2022

Appeal Ref: APP/D5120/W/21/3280309

28 Standard Road, Bexleyheath DA6 8DP

- 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 Remish against the decision of the Council of the London Borough of Bexley.
 - The application Ref 20/03187/FUL, dated 5 November 2020, was refused by notice dated 20 July 2021.
 - The development proposed is for the demolition of existing building office Class E and erection of 4 no self-contained flats Class C3 consisting of 2 no 2 – bed flats and 2 no 1 bed flats. Roof extension including 2 no, rear dormer windows, front rooflights, including addition of balconies at the first-floor level.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Remish against the Council of the London Borough of Bexley. This application is the subject of a separate decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - The living conditions of the future occupiers of the proposed development with particular reference to the quality of external amenity space, outlook, and noise.
 - The living conditions of the neighbouring occupants with particular reference to outlook and privacy.
 - The character and appearance of the area.

Reasons

Living Conditions - Future Occupiers

4. The plans indicate that proposed flat 1 would be provided with 5 square metres (sqm) of external amenity space. I have not been advised of any higher standards elsewhere and Policy D6 of the London Plan 2021, at section 9, states that a minimum of 5 sqm of private outdoor space should be provided for 1-2 person dwellings.

5. As a 1 bed unit, flat 1 would be compliant with the quantitative threshold of Policy D6 of the London Plan. However, Policy H7 of the Bexley Council Unitary Development Plan 2004 (the UDP), states that residential development should provide a reasonable degree of outlook for space outside dwellings. The single storey rearward projection of the proposed development would extend significantly alongside and beyond this external amenity area. While single storey, this in combination with its proximity to the boundary and rearward projection would be visually dominant and harmful to the outlook of flat 1 when viewed from its proposed external amenity area. For the same reasons, this harm would also apply to the only window serving the bedroom of flat 1 which, despite being full length glazed doors, would also be sited very close to the single storey rear projection.
6. While the depth of the balconies provided for flats 3 and 4 are shown on the proposed plans, the widths are not. The Council consider the balcony serving flat 3 would measure 3.9sqm and flat 4 3.7sqm. In contrast the appellant considers the balconies would both provide 5sqm each. By my own calculations, using the submitted plans which the Council based its decision on, I find the figures to be closer to the Council's calculations and therefore under the threshold set in policy.
7. While the appellant has shown in their final comments that the size of the balconies on the first floor could be increased to meet or exceed the minimum standard, I am mindful that the appeal process should not be used to evolve a scheme and it is important that what is considered by me is essentially what was considered by the Council, and on which interested parties' views were sought.
8. The stacking arrangement of the proposed development would place the kitchen/living area of flat 2 below a bedroom associated with flat 3. No details of noise insulation have been provided. Had the appeal been acceptable in all other regards, details of noise insulation could be agreed via the imposition of conditions.
9. The balcony serving flat 4 would be sited close to a bedroom window of flat 3. While I accept there may be potential for noise, it is not unusual for flats to be laid out in an arrangement where balconies or other external amenity areas are sited close to other occupiers. Notwithstanding noise pollution is controlled under Environmental Health legislation, I have not been provided with specific evidence as to how this layout would cause unacceptable noise. In this regard I do not find the balcony serving flat 4 would give rise to unacceptable levels of noise disturbance to the detriment of the occupiers of flat 3.
10. The bedroom windows serving flat 2 would be reasonably separated from the boundary fences which are shown on the plans to be 1.8 metres in height. Given the separation and absence of buildings immediately beyond these fences, the outlook from flat 2 would be acceptable.
11. While I have found, subject to conditions, there would be no harm in respect to noise, the proposed development would have a harmful effect upon the living conditions of its future occupiers with particular reference to outlook and quality of external space for the reasons I have set out. The proposal would therefore be contrary to the relevant provisions of Policy H7 of the UDP, Policy D6 of the London Plan and Paragraph 130(f) of the National Planning Policy Framework (the Framework). These, amongst other things, address the need

for high quality design and to respect the living conditions of residential occupiers.

12. The appellant has brought the Mayor of London's Housing Supplementary Planning Guidance 2016 (Mayor's SPD) to my attention, and I note its content in respect to providing adequate living conditions of future occupiers. While I have not been made aware of any conflict with the Mayor's SPD in respect of this main issue, the absence of harm carries limited weight and does not outweigh the harm identified in terms of this main issue.
13. The appellant has also suggested that the proposal complies with Policy H6 of the UDP. This policy seeks to provide adequate useable on-site amenity space. As set out in my findings above, I have found that the proposed development does not achieve this. The appeal scheme would therefore conflict with this policy.

Living Conditions - Neighbouring Occupiers

14. 30 Lion Road is sited at a right angle to the appeal site and accordingly its rear elevation faces the flank side of the proposed development. The plans show that the proposed development would be between 6.5 and 9.8 metres away from the rear elevation of 30 Lion Road. These figures are not disputed by the Council.
15. Principle 3, page 25 of the Bexley Council Design for Living Residential Design Guide Supplementary Planning Document 2006 (the SPD) states that where new development abuts existing residential development, to maintain the existing expected levels of outlook there should be 16 metres from a habitable room window to a flank wall. The appeal proposal would fall considerably below this threshold and the proposed development's width, height and proximity to 30 Lion Road would cause it to be visually overbearing to the outlook of this neighbouring occupier.
16. As part of appeal reference APP/D5120/W/18/3195655, the Inspector referred to the SPD as guidance. I have no reason to disagree. Putting aside the differences between the scheme before me and 3195655, in falling short of the guidance the scheme before me would give rise to planning harm in the form I have explained above. Harm which, as I shall come onto, would lead to conflict with the development plan.
17. The Council did not raise objections in respect to daylight and sunlight. There is no compelling reason for me to disagree. Good quality outlook is achieved without other buildings, amongst other things, being visually intrusive. The acceptability of the proposed development regarding daylight and sunlight does not change my overall findings in respect to outlook.
18. The proposed development would introduce first and second floor rear facing windows and as is common in this street, and as acknowledged by the Council, it is not unusual for adjacent flank to flank neighbours to have some degree of first floor mutual overlooking to the rear. The closest proposed first floor window would be high level and the second-floor closest proposed window would be reasonably separated from the shared boundary with 30 Standard Road. On this basis, the proposed development would ensure acceptable living conditions for the occupiers of 30 Standard Road.

19. While I have found no harm in respect to privacy, the proposed development would have a harmful effect upon the living conditions of the occupiers of 30 Lion Road with particular reference to outlook. The proposal would therefore be contrary to the relevant provisions of Policies H6 and H7 of the UDP, Policy D6 of the London Plan and Paragraph 130(f) of the Framework. These, amongst other things, address the need for high quality design and to respect the living conditions of residential occupiers.
20. The appellant has also suggested that the proposal complies with Policy ENV39 of the UDP in respect to the living conditions of neighbouring occupiers. This policy seeks to, amongst other things, protect the environment of the occupiers of adjacent properties. As set out in my findings above, I have found that the proposed development does not achieve this. The appeal scheme would therefore conflict with this policy.

Character and Appearance

21. The appeal site is in a residential area with diversity to its buildings including a pre school and some commercial uses. Whilst predominantly two storey, the design of the individual features of buildings varies noticeably as does spacing and distances to plot boundaries. There is also some variety to external materials and dwelling type from terraced, through semi-detached to detached units.
22. While the proposed development would not significantly increase the proximity of the proposed building to the flank boundaries, when viewed from the street, it would increase in height from single storey structures to a two-storey with a gable ended roof. However, the proposed building would still retain separation from both its flank boundaries particularly when perceived from Standard Road. 30 Lion Road is also orientated at a right angle with its garden separating it from the proposed development further increasing the separation between the built form.
23. The prevailing sense of variety in the area would comfortably subsume the increased bulk and mass to the new building. Furthermore, longer blocks of terraced buildings also feature in Standard Road close to the appeal site. The proposal would not be cramped, contrived, dominating or awkward in its context.
24. Accordingly, I find no conflict with the relevant provisions of Policies ENV39 and H3 of the UDP, Policies D3 and D4 of the London Plan and Paragraph 130 of the Framework which, amongst other things, seek to ensure that development is sympathetic to the character and appearance of the area.
25. Policy CS03 of the London Borough of Bexley Core Strategy 2012 (the Core Strategy) is quoted in reason for refusal 1. Policy CS03 appears to apply to the Belvedere geographic region and the appeal before me would be within the Bexleyheath geographic region. I therefore have not had regard to this policy since it does not appear to be directly relevant to the main issue.

Other Matters

26. The appellant makes reference to Policy H5 of the UDP, however this Policy refers to Residential Areas of Special Character. I have not been provided with

evidence that the appeal site falls within such an area and as such does not alter my findings on the main issues.

27. The appellant also makes references to superseded policies from the 2016 version of the London Plan as well as the 2021 London Plan. Superseded policies have by their very nature been replaced by new policies and as such no longer form part of the development plan.
28. Any compliance there may be with Building Regulations in respect to floor area to window area ratios would not absolve me from assessing whether the outlook from said windows would be acceptable in planning terms. The appellant also refers to a planning standard in respect to floor area and window area, however, I have not been provided with details thereof and as such my findings in regard to the relevant main issue are unchanged.

Conclusion

29. Whilst I have found there would be no harm in regard to the character and appearance of the area, this would be a neutral matter, accordingly incapable of weighing against the harm that there would be to the living conditions of future and neighbouring occupiers. The appeal scheme would conflict with the development plan and the Framework for the reasons I have given. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

N Praine

INSPECTOR