



Appeal Decision

Site visit made on 18 January 2022

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 14th June 2022

Appeal Ref: APP/D5120/W/21/3275513

73 Howard Avenue, Bexley DA5 3BA

- 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 S Dillon against the decision of the Council of the London Borough of Bexley.
 - The application Ref 20/02471/FUL, dated 30 September 2020, was refused by notice dated 31 December 2020.
 - The development proposed is the erection of a 3 bedroom detached dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Policies from the London Plan (2016) referred to by the Council in refusing permission have been superseded by policies from the London Plan (2021) (the LP). I must base my decision on the development plan prevailing at the time of my determination. In light of this, the main parties have had the opportunity to provide submissions in writing on the relevance of the new LP to the case.
3. Since the Council took its decision and the appeal was made the National Planning Policy Framework (the Framework) has been revised. I have determined the appeal on this basis and I have taken any comments made by the main parties in this respect into account in reaching my decision.
4. The published Housing Delivery Test results (2021) indicate that a change to the buffer applied to demonstrate a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against the Council's housing requirement was necessary. As a result, the parties were provided with an opportunity to comment on the matter.

Main Issues

5. The main issues are the effect of the appeal proposal on:
 - The character and appearance of the area;
 - The living conditions of future occupiers of the proposed development with regard to privacy, outlook, and daylight and sunlight; and those of the occupiers of No 73 Howard Avenue with regard to outlook; and

- The safe and efficient operation of the highway network in the vicinity of the appeal site.

Reasons

Character and appearance

6. The host dwelling has a prominent position at the corner of two roads and lies at the end of a row of residential development on Howard Avenue which has a strong continuity of design which results from the use of features including hip roofs, bay windows and porches. Properties within the row have linear rear gardens which slope towards the river. The lack of significant built form within these produces a spacious backdrop to dwellings on Howard Avenue. This spaciousness contributes positively to the character and appearance of the area.
7. The appeal site is land at the end of the dwelling's rear garden, and holds a garage and forecourt. The site is highly visible both from the public realm and from the rear of dwellings in the vicinity as a result of its position adjacent to Albany Road, and to a track which runs behind gardens.
8. The roof of the proposed three-bedroom dwelling would consist of a section of flat roof and a section of pitched roof. The fenestration of both the front and rear elevations of the property would have an asymmetrical arrangement. The property would not include a porch. The elevation adjacent to Albany Road would comprise a substantial two-storey unbroken wall which would be highly visible from the public realm as a result of its scale and proximity to the street.
9. These design features would combine to produce an incongruous appearance which would jar with the relative uniformity of design of the surrounding properties. The new dwelling's prominent position set apart from other development would additionally result in an undue visual dominance which would erode the area's spacious appearance.
10. The proposal would consequently cause unacceptable harm to the character and appearance of the area. As a result, it conflicts with Policy CS01 of the London Borough of Bexley Core Strategy (2012) (the CS), which states that new development should reflect or enhance the unique characteristics of the area, including residential gardens. Further conflict exists with Policies H3 and ENV39 of the London Borough of Bexley Unitary Development Plan (2004) (the UDP), which set out that development should be compatible with the character or appearance of the area in which it is located. Additional conflict exists with Policy H8 of the UDP, which states that development proposals at such locations should ensure that there is no adverse effect on the character of the area.
11. The proposal additionally conflicts with Policy GG1 of the LP, which states that development should achieve an overall positive contribution to the area. Further conflict exists with Policy D3 of the LP, which sets out that development proposals should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness. Additional conflict exists with Policy D6 of the LP, which states that housing development should be of high quality design. Further conflict exists with Policy H2 of the LP, which sets out that boroughs should support well-designed new homes on small sites. Additional conflict exists with the provisions of the Framework in respect of design.

Living conditions

12. The new dwelling's ground floor rear windows would serve a kitchen/living area and a snug. The rear courtyard would be enclosed by a wall which the Council submits would be 3.3 metres high (which is uncontested by the appellant). The wall would lie in relatively close proximity to the new dwelling's ground floor rear windows due to the limited size of the courtyard. The outlook from these windows would consequently be severely constrained by substantial built form as a result of the scale and proximity of the wall. The suggested imposition of a condition to require a scheme of planting would not affect the scale and position of the wall and consequently it would not overcome my concerns in this regard.
13. The front ground floor French doors to the proposed kitchen/living area would face the new dwelling's front garden. This would be enclosed by a fence of 1.8 metres in height and a wall. The outlook from the doors would be somewhat limited as a result of the proximity of these structures and some limited harm to the living conditions of occupiers would consequently arise. Nevertheless, the overall harm which the proposal would cause to the living conditions of future occupiers with regard to outlook would be moderate in degree, because the available outlook from the rear of the new property would be extremely limited.
14. Whilst the Council's concerns with regard to outlook include an assessment of the effect of a suggested garage at the adjacent property (No 75 Howard Avenue), that structure was not present at the time of my site visit and therefore it does not form part of my assessment.
15. The rear courtyard wall would additionally be likely to cause ground floor rooms to the rear of the new dwelling to be unduly gloomy as a result of its height and proximity to the rear elevation, irrespective of its southern-facing aspect. The lack of windows to the dwelling's side elevation would exacerbate this harm.
16. The front garden fence would be at a greater distance from wall openings, and of a lower height, than the rear wall. In view of these factors the evidence does not demonstrate that there would be unacceptable harm to living conditions with regard to daylight to the front ground floor rooms of the dwelling.
17. Whilst the Council's decision notice refers to concerns about the proposal's effect on the living conditions of future occupiers of the development with regard to privacy, there is minimal further detail to support these concerns. The new dwelling would only have windows to the ground floor of the rear elevation and the application plans suggest that the presence of the boundary wall would largely prevent intervisibility between these windows and the rear of the host dwelling or its garden. Boundary treatments would be capable of limiting views from the track in front of the new dwelling into the front ground floor windows. Thus, I have no evidential basis to concur with the submission that the proposal would have an unacceptable effect on the living conditions of occupiers of the new dwelling with regard to privacy.
18. The Council's Design for Living Supplementary Planning Document (2006) (the SPD) sets out that elevations which contain habitable room windows should lie at least 22 metres apart in order to achieve a good level of privacy and

outlook. The flat roof of the proposed dwelling would lie approximately 20.2 metres from the closest rear windows at the host dwelling. The proposal consequently does not comply with the SPD guidance.

19. However, the new dwelling would have a significant subservience in height to the host dwelling, as a result of its position at a lower land level. Furthermore, within views from the host dwelling, the outlook around the new dwelling would remain generally open as a result of the lack of development within nearby rear gardens. As a result of these considerations, the conflict with the SPD would not result in unacceptable harm to the living conditions of occupiers of the host dwelling with regard to outlook in this case.
20. Nevertheless, the proposal would cause moderate harm to the living conditions of future occupiers of the proposed development with regard to outlook and daylight and sunlight. As a result, it conflicts with Policy H7 of the UDP, which states that residential development should provide a reasonable degree of outlook for space within and outside dwellings. Further conflict exists with Policy D3 of the LP, which states that development proposals should deliver appropriate outlook. Additional conflict exists with Policy D6 of the LP, which sets out that the design of development should provide sufficient daylight and sunlight to new housing.

Highway Safety

21. The proposed dwelling would lie on Albany Road, which has partial yellow lines and some areas for parking indicated within the footway, suggesting a high level of demand for on-street parking. The highway authority submits photographs showing a significant level of on-street parking on Albany Road, and this was also the case at the time of my site visit. Whilst these instances represent only "snapshots" in time, there is nothing to suggest that this situation is not typical. On-street parking can introduce a road safety problem due to the potential for the obstruction of traffic flow and the reduction of visibility. I consider that these issues would potentially apply to the highway network in the vicinity of the appeal site due to the high level of existing parking on Albany Road.
22. One off-street parking space would lie adjacent to the new dwelling. This would be accessed via the track which runs behind rear gardens. Although there is minimal substantive evidence on the matter, it appears likely from the restricted dimensions of the track and parking area that vehicular manoeuvres to access the parking would be challenging in nature. This would be likely to discourage occupiers from parking in the space, which would in turn give rise to an increase in the demand for on-street parking in the vicinity. I acknowledge that the track already appears to be in use for vehicular access, however this matter does not compel me to find the appeal scheme acceptable in the absence of substantive evidence on the matter.
23. The site has a PTAL (Public Transport Accessibility Level) of "very poor" and hence the private car is likely to be one of the most likely modes of transport for future occupiers of the development. In view of the size of the dwelling proposed and my concerns regarding the proposed off-street parking space it appears most likely that the proposal would result in regular demand for the parking of one-two additional vehicles on streets in the vicinity.

24. Given the high level of existing demand for on-street parking, any further demand would be likely to give rise to harm to highway safety through obstruction of the flow of traffic and/or adverse effects on visibility. As a result, it has not been demonstrated that the surrounding area has the capacity to safely accommodate the additional demand for on-street parking which would result from the proposed development.
25. Thus, the proposal would cause unacceptable harm to the safe and efficient operation of the highway network in the vicinity of the appeal site. It consequently conflicts with Policy CS15 of the CS, which states that the Council will work to achieve a safe transport system. Further conflict exists with Policy ENV39 of the UDP, which states that in determining applications for development the Council will consider the extent to which a proposal makes adequate provision for vehicle parking in accordance with the Council's vehicle standards. Additional conflict exists with Policy H8 of the UDP, which sets out that residential development at such locations should provide adequate access for vehicles. Further conflict exists with Policy T17 of the UDP, which states that provision for off-street parking should be made in development applications.

Other Matters

26. In refusing permission on highway safety grounds the Council relies partially on Policy G18 of the UDP. This policy concerns the management, improvement and classification of roads in the borough. Furthermore, the Mayor of London's Housing Supplementary Planning Guidance (2016) is relied on in refusing permission on living conditions grounds. Nevertheless, I have identified no specific areas of conflict with this policy and guidance. Thus, they have only minimal relevance to the main issues of the appeal.
27. Similarly, whilst Policy H8 of the UDP is relied on in refusing permission on living conditions grounds, that policy provides that proposed dwellings should be adequately separated from other dwellings in terms of their amenities. The harm which I have identified to living conditions would arise not from the presence of another dwelling but from the presence of walls and fences at the new development. Thus, this policy also has minimal relevance to the main issues.
28. I have had regard to other matters raised, including concerns about the proposal's effect on flood risk and the privacy of adjacent occupiers. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Planning Balance

29. The Government's objective is to significantly boost the supply of housing and the proposal would provide a modern home in a location with adequate access to services. The provision of the additional housing attracts modest weight given the small scale of the proposal. The scheme would also lead to a small and time-limited economic benefit during the construction phase, which may give rise to extra local employment.
30. Any compliance with space standards is a neutral matter which does not add weight in favour of the proposal. Furthermore, the Framework provides support for the effective use of land where the environment is to be

safeguarded and improved, and where safe and healthy living conditions would be provided. As I have found above that the proposal would cause harm in respect of both of these matters, section 11 of the Framework does not lend weight to a grant of permission.

31. Whilst it is suggested that the proposal complies with Policies D5 (Inclusive Design) and T6 (Parking) of the LP, substantive evidence on the matter is not before me. Thus, I have no evidential basis to concur with the submission.
32. Conversely, the proposal would cause unacceptable harm to the character and appearance of the area, moderate harm to the living conditions of future occupiers of the development with regard to outlook and daylight and sunlight, and unacceptable harm to highway safety. These matters attract significant weight and outweigh the benefits associated with the proposed development.
33. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

34. Thus, for the reasons outlined above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR