



Appeal Decision

Site visit made on 3 February 2023

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd February 2023

Appeal Ref: APP/D5120/W/22/3307330
43 Barnehurst Avenue, Erith DA8 3NF

- 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 & Mrs J Divall against the decision of The London Borough of Bexley Council.
 - The application Ref 21/03051/FUL, dated 1 October 2021, was refused by notice dated 26 July 2022.
 - The development proposed is the demolition of existing side extension and construction of a 3 bedroom semi-detached dwelling with associated amenity space, associated parking and provision of both bin store and bicycle store.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - The character and appearance of the appeal site and local area; and
 - Fire safety.

Reasons

Character and Appearance

3. The appeal site is part of the garden of 43 Barnehurst Avenue (No.43), a two storey end of terrace house with a generous garden. No.43 has an original hipped roof form with a front gable feature and has been the subject of a substantial rear extension that extends the original flank wall of No.43. A previous side extension detailed in the description has, however, already been removed.
4. The flank wall of No.43 faces towards the street, whilst the appeal property faces onto an area of off street parking. The existing garden wraps around the flank wall of No.43, with the side and rear garden enclosed by a tall timber fence. The garden borders the highway to the flank side of No.43 and at the rear backs onto an access road that leads to Barnehurst Junior School.
5. The immediate local area is generally made up of similarly scaled terraced houses with some larger detached and semi-detached houses. The street pattern of the local area results in a number of acutely angled corner plots.

6. This planned spatial arrangement results in the street facing corners of these corner plots, including the appeal plot, being open and generally free of built form and other structures. This is a feature of what is a relatively densely developed neighbourhood and makes a significant contribution to the established character and appearance of the local area.
7. The proposal is for an end of terrace, 2 storey, 3 bedroom dwelling, which would adjoin to the flank wall of No.43 in the form of a hipped roof with front gable feature. This would replicate the design, form and scale of the existing house on the appeal plot and others in the adjacent terraces. To the side of the proposed front gable feature, the first floor of the proposal would have a cat slide roof form, stemming from the main front roof slope. This would closely replicate the appearance of the front No.43. The main two storey part of the proposed dwelling would not, however, extend to the rear to the same extent of the rear single storey part of No.43.
8. On the flank wall side, the proposal would have engaged dormer windows at first floor level. To the rear, the two storey part of the proposal would step out sideways towards the street. This would result in a stepped plan arrangement, with the front corner of the proposed dwelling sitting approximately 0.2m from the boundary of the appeal site with the highway. The eaves to the flank would, however, appear to reach to the boundary line.
9. The appellant has indicated that the proposal is intended to overcome the reasons for the dismissal of a recent appeal¹ for a proposed detached dwelling on the appeal site. Whilst the proposal is for an end of terrace rather than a detached dwelling, and the scale and architectural expression of the proposal would generally reflect that of No.43 and the other nearby terraced properties, the proposal would be built on an area of garden that currently reflects the spatial characteristics of the wider area that I have identified.
10. Whilst the proposal would have a stepped plan that would define the appearance of the flank wall facing the street, it would have fewer steps than the proposal previously dismissed on appeal. At its junction with the front elevation of the proposal, the flank wall would reach almost to the boundary of the appeal site with the highway. At this point the flank wall of the proposal would be a single storey in height. However, the proposed cat slide roof form would result in this developing sharply into a two storey flank wall for most of its length. The extent of the proposed two storey flank wall, and proximity to the highway would result in the proposed dwelling constraining the openness of the existing streetscape.
11. Due to the infilling of the existing open garden area with the proposed dwelling and the extent and proximity of its flank wall to the public highway, the proposal would have an unduly prominent and dominating presence in views from along the street, particularly within the context of the other open corner plots.
12. The appellant has drawn my attention to examples of developments for housing extensions and new dwellings in the local area, including those allowed on appeal. Whilst all these examples demonstrate very different individual layouts, they all appear to respect the local spatial characteristics relating to the openness of corner plots within the local area that I have identified, and

¹ Appeal ref: APP/D5120/W/20/3258004

generally allow for a less constrained relationship between the development and the public highway than the proposal. These would have been considered on their own individual merits, and I have done likewise in my consideration of the proposal. I have, therefore, afforded the appellants examples only limited weight in my considerations.

13. The proposal would detract from the openness of the appeal plot and the existing spatial characteristics of the area that I have identified above, and would, therefore, have an incongruous appearance within the context of the local area and would detract from its local streetscene.
14. For these reasons the proposal would result in significant harm to the established character and appearance of the local area. This would be contrary to policies H8 and Env39 of the Bexley Unitary Development Plan (2004) (the UDP), policy CS01 of the Bexley Core Strategy (2012) The CS, policy D3 of the London Plan (2021) (the London Plan) and paragraph 130 of the National Policy Framework (2021) (the Framework). These collectively seek development that is of high quality design and respond to their place and are compatible with the character or appearance of the local area.

Fire Safety

15. Whilst no information on fire safety, as set out in policy D12 of the London Plan was submitted with the original application, the appellant has provided further information as part of their appeal in relation to fire safety. This includes information on emergency vehicle access, assembly points for evacuated residents, an evacuation strategy and an outline of fire protection that could be installed.
16. As suggested by the appellant, further details and confirmation of fire safety protection, which would satisfy the full information on fire safety set out in policy D12 of the London Plan, could be made the subject of a suitable condition on a planning approval. This would satisfy the requirements of paragraphs 56 and 57 of the Framework.
17. For these reasons I do not find that the proposal would result in any significant harm related to fire safety. In this context, the absence of harm is a neutral factor in my considerations.

Benefits of the Proposal

18. As well as providing a single family dwelling, the proposal would also generate employment opportunities during its construction and through the employment of local services for its upkeep and maintenance when occupied. The location of the proposal would also appear to be in a location reasonably well served by public transport. The proposal has a through floor lift and the appellant has set out that the intention is that the proposal would be fully accessible for potential future needs of occupiers. In connection with the single additional dwelling proposed, these benefits attract modest weight in favour of the proposed development.

Other Matters

19. Whilst the Council has found that the proposal would be contrary to policy D4 of the London Plan, I find that this policy does not relate directly to

development proposals, but rather to design policy and design management by London boroughs.

Planning Balance and Conclusion

20. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise, which includes the Framework.
21. The most recent Housing Delivery Test results indicates that new housing delivery in the Borough is 93% of that required. When applying paragraph 74 of the Framework, the authority should, as set out in paragraph 76 of the Framework, prepare an action plan in line with national planning guidance, to assess the causes of under-delivery and identify actions to increase delivery in future years.
22. Although the Council's under delivery of housing is not substantial and, acknowledging that the Framework policies H1 and H2 of the London Plan recognise the part that small sites can play in helping to meet housing, this adds some weight to the contribution that could be made by the proposal to the delivery of new housing. The proposal would, however, only be a limited contribution through the addition of a single family dwelling.
23. Taking account of the objective of significantly boosting the supply of homes and the Council's supply position, the conflict between the proposal and the relevant parts of policies H8 and Env39 of the UDP, policy CS01 of the CS, policy D3 of the London Plan and paragraph 130 of the Framework should be given significant weight in this appeal. I therefore conclude that the proposal would not accord with the development plan, when considered as a whole. I further find that the adverse impacts of the proposal are matters of great weight, which outweigh the benefits stated.
24. The proposal would conflict with the development plan as a whole and there are no other material considerations which outweigh this finding. Accordingly, for the reasons given, and with paragraph 11 of the Framework in mind, I conclude that the appeal should be dismissed.

Victor Callister

INSPECTOR