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# Appeal Decision

Site visit made on 18 January 2023

**by J Moore BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 March 2023**

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**Appeal Ref: APP/D5120/W/22/3304285**

**139 Blendon Road, Bexley DA5 1BT**

- 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 Dhillon against the decision of the London Borough of Bexley.
  - The application Ref 21/02912/FUL, dated 4 August 2021, was refused by notice dated 3 February 2022.
  - The development proposed is part one/part two storey extension to provide 1 x 1 bedroom flat and 1 x 2 bedroom flat.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appellant has submitted two drawings (Refs: PL106-F and PL107-E) for consideration as an amended scheme at this appeal, which includes changes to the internal layout and fenestration, with an additional window at the rear of the property in close proximity to neighbours.
3. Procedural advice<sup>1</sup> is that an applicant should normally make a fresh planning application if they consider that amending the scheme would overcome the Council's reasons for refusal. Furthermore, the appeal process should not be used to evolve a scheme. In considering whether to accept the amended scheme, I have had regard to the 'Wheatcroft Principles'<sup>2</sup>. That is to say, if I were to accept the amended scheme, would my doing so deprive those who should have been consulted over the changed development the opportunity of such consultation. In this case, as I cannot be sure that all parties, including third parties would have been aware of these changes and had fair opportunity to comment on them, I have determined the appeal on the basis of the application as originally submitted and upon which consultation took place.

## Main Issue

4. The main issue is whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to outlook; the provision of private outdoor amenity space; and the provision of safe, secure and convenient cycle storage and integrated waste and recycling.

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<sup>1</sup> Procedural Guide – Planning Appeals – England

<sup>2</sup> Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

## Reasons

5. The appeal proposal comprises the upper floors of a commercial unit within a shopping parade.
6. The bedroom of Flat B would be served by three rooflights. Due to the position and angle of the rooflights within the roofscape, and the absence of any other windows, the outlook from the bedroom in Flat B would be restricted to the sky, with very limited visual interest. The proposal therefore would not provide an acceptable outlook for future occupiers of Flat B.
7. I am satisfied that the garden and garage building to the rear of the appeal property would be for the exclusive use of future occupiers. The garden provides a sufficient quantum of outdoor amenity space for both flats to meet the Council's standards<sup>3</sup>.
8. Flat A would have direct access to the garden via an external staircase. However, future occupiers of Flat B would be required to exit via the front entrance to the street, and then proceed to the rear gate of the appeal property via a track at the eastern end of the shopping parade. The track is unmade and uneven, and it relies on illumination from various lighting fixtures attached to structures along the track. This route would be off-putting and inconvenient to future occupiers of Flat B.
9. Due to its small size, together with its width and depth, the balcony of Flat B would not meet the Council's standards.
10. Therefore, the proposal would not deliver the required standard of outdoor amenity space for Flat B.
11. Given its size, the garage building would be readily capable of accommodating cycle storage and waste/recycling receptacles. At my visit, I saw both commercial and domestic receptacles for waste and recycling along the track and within the rear amenity space of other properties.
12. However, the occupiers of Flat B would not have convenient access to the garage building, as I have found in my reasoning above with regard to access to outdoor amenity space. Consequently, the future occupiers of Flat B would not have easy access that would encourage cycle use or conveniently manage waste and recycling. While the appellant suggests that a chute mechanism could be designed to address this matter, there is no detailed information of this before me. Therefore, I cannot be sure that it sufficiently addresses my concerns.
13. I therefore conclude that the proposed development would not provide acceptable living conditions for future occupiers of Flat B, with particular regard to outlook; the provision of private outdoor amenity space; and the provision of safe, secure and convenient cycle storage and integrated waste and recycling.
14. The proposal would conflict with Policies D6 and T5 of the London Plan 2021, Policies H6 and H7 of the Bexley Council Unitary Development Plan 2004, and Policy CS15 of the Bexley Core Strategy 2012. These policies seek (among other things) to ensure high quality housing that provides a reasonable outlook and adequate and easily accessible private outdoor space in order to achieve

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<sup>3</sup> Bexley Council Supplementary Planning Document *Design for Living* 2006 (SPD).

healthy communities; to ensure adequate, safe, secure and convenient cycle storage facilities in order to encourage cycling and so achieve strategic objectives in relation to health and sustainable transport; and to ensure convenient integrated waste and recycling facilities for residents.

### **Other Matters**

15. The appellant provided details of a planning permission granted 15 July 2022 (Ref 22/01280/FUL). This scheme would deliver one flat at the appeal property, rather than two flats. As such, it is materially and substantially different to that before me. Therefore, I do not consider it to be a fallback position. Even if I were to do so, it would not give rise to the same concerns as with the appeal scheme; for example, the single flat would meet the required standards for private amenity space and convenient access to manage integrated waste and recycling. If this appeal were to fail, I consider there would be a reasonable prospect that this approved scheme would be implemented. Consequently, I give this matter limited weight.
16. The appellant claims that the Council did not reasonably engage during the determination phase of the planning application; and that a fresh application to amend the scheme was not submitted as they felt unfairly treated. However, the conduct of the council is not a matter that effects my findings on the main issue and/or the planning merits of the scheme.

### **Conclusion**

17. For the reasons given, I conclude that the development conflicts with the development plan, read as a whole. No material considerations have been shown to carry sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

*J Moore*

INSPECTOR