

Appeal Decisions

Site visit made on 28 March 2023

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an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 01 June 2023

Appeal Ref: APP/D5120/C/21/3289965

241 Main Road, Sidcup DA14 6QS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Willow Developments Ltd against an enforcement notice issued by the Council of the London Borough of Bexley.
 - The enforcement notice was issued on 30 November 2021.
 - The breach of planning control as alleged in the notice is a) The material change of use of the premises to seven (7) self-contained units of residential accommodation; and b) The erection of a side and rear dormer.
 - The requirements of the notice are a) Cease the use of the premises on the land outlined in red on the attached plan as seven self-contained units of accommodation; b) Remove all kitchen facilities from each self-contained unit of accommodation, including all cupboards, sinks, boilers, worktops, ovens, hobs; c) Remove the shower, toilet and bathroom facilities from each self-contained unit of accommodation; d) Remove the side and rear dormer shown in the attached photographs; e) Remove any partition walls and entrances that creates self-containment in order to allow free internal passage to all areas; and f) Remove all materials resulting from complying with 5(b)-5(e) from the land.
 - The period for compliance with requirement a) is six months and with requirements b) to f) is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal Ref: APP/D5120/W/21/3289964

241 Main Road, Sidcup DA14 6QS

- 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 Willow Developments Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 20/02214/FUL, dated 4 September 2020, was refused by notice dated 29 November 2021.
 - The development proposed is retention of existing 1/2/3 storey building as 7 flats with 7 parking spaces, cycle storage and refuse storage.
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Decisions

Appeal Ref: APP/D5120/W/21/3289964

1. The appeal is allowed and planning permission is granted for the retention of existing 1/2/3 storey building as 7 flats with 7 parking spaces, cycle storage and refuse storage at 241 Main Road, Sidcup in accordance with the terms of the

application Ref. 20/02214/FUL, dated 4 September 2020, subject to the following conditions:

1. The part of the site used for vehicle parking shall be permanently maintained and available for that use at all times.
2. Access onto the site off Main Road shall be provided with 2.4m x 2.4m pedestrian visibility splays within the site and in both directions which shall be maintained free of all obstacles higher than 0.6 metres.
3. Within three months of the date of this decision details of arrangements for the storage and enclosure of refuse and recycling bins shall be submitted to the Local Planning Authority for their written approval. The approved arrangements shall be completed and brought into use within one month of the date of approval and shall be maintained thereafter.
4. Within three months of the date of this decision details of arrangements for the storage and enclosure, if required, of a minimum of 10 cycles shall be submitted to the Local Planning Authority for their written approval. The approved arrangements shall be completed and brought into use within one month of the date of approval and shall be maintained thereafter.

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2. The planning appeal and the ground (a) enforcement appeal have succeeded and planning permission has been granted, under the planning appeal, for the building that is the subject of the notice. The enforcement notice is quashed.

Reasons

3. 241 Main Road was, originally, a two-storey semi-detached dwelling that was converted into offices. In 2016 the Council concluded that prior approval was not required for change of use of the office building to seven 1-bed self-contained residential units. Subsequently, in the following year, they refused planning permission for change of use to four 1-bed and three 2-bed residential units but later granted prior approval for change of use to seven 1-bed and two studio units. Five further applications for prior approval and planning permission were refused. The building has been converted to seven units of residential accommodation but not in accordance with the prior approval granted in 2017. In particular, the prior approval scheme did not include a side and rear dormer.

The ground (a) enforcement appeal and the planning appeal

4. The main issues are; first, the effect of the side and rear dormer on the character and appearance of the building and the street scene; second, whether residents have acceptable living conditions; and third, the effect of the use of the parking area at the property on highway and pedestrian safety.

The first issue – the character and appearance of the building and the area

5. Five of the seven self-contained residential units are single storey ground floor apartments. The other two units are first and second floor 2-bed maisonettes; the bedrooms being at second floor level in a dormer that has been added to the original roof. The Council maintains that “The dormer as built sits higher than the main roof ridge on all sides”. The dormer does sit higher than the ridge of the roof over a forward projecting gable but it is at approximately the same level as the ridge of the roof, running parallel with Main Road, over the main

part of the building. Consequently, in views from the north-west, the dormer is relatively unobtrusive and no more harmful to the appearance of the building than any other alteration that has been made to it.

6. In views from the south-east, however, the full depth of the dormer is visible and it is, indeed, a bulky rooftop addition to the building. But the dormer is clad in the same grey tiles that cover the sloping parts of the roof in front and below, and it does not therefore appear awkward or contrived, as suggested by the Council. The frontage of the building has been the subject of previous alterations, the appeal building does not now have the bay and plaster detailing that is retained on the adjoining building, and the dormer does not unbalance the pair of properties. The building is in an area where there is a wide variety of building types and uses in a wide variety of materials and built form. The dormer, in this regard, is not intrusive or detrimental to the character and appearance of the street scene.

7. The side and rear dormer does not unduly harm the character and appearance of the building and the street scene. The development does not thus conflict with policies SP5 and DP11 of the recently adopted Bexley Local Plan (BLP) or with relevant policies in the London Plan (LP).

The second issue – living conditions

8. The enforcement notice and the refusal notice for the planning application specify the Council's concerns with regard to the living conditions of residents of the seven residential units. In general terms it is acceptable for bedrooms to have obscure glazed windows to protect residents of neighbouring properties from loss of privacy. The three windows to unit 2, one to a bedroom and two to a living area, face towards the boundary wall of a neighbouring property to the south-east across the access and parking area at the property. The outlook from the unit is not dull, is similar to many in ground floor residential units in the London area and is not substandard. The window to a living room in unit 5 has the same relationship to the neighbouring property as the windows in unit 2 and the outlook from this window is also not substandard.

9. The bedroom in unit 5 is, as noted at the site visit, a double bedroom of adequate size. Unit 7 has one double bedroom of adequate size and a single bedroom that is lit only by a rooflight. This is acceptable for a single bedroom. None of the seven units have any private outdoor amenity space. In these circumstances LP policy D6 states that dwellings may instead be provided with additional living space equivalent to the area of the private open space. Units 4 and 7 are less in area than required by LP policy but only by a few square metres and it was noted at the site visit that neither unit felt cramped or substandard in floor area. It was also noted at the site visit, which was carried out on an overcast day, that no flat entered had unacceptable levels of daylight or provided substandard living conditions.

10. All matters raised by the Council with regard to this issue have been taken into account but none, either individually or collectively, justify a conclusion other than that residents of the seven residential units have acceptable living conditions. The development does not, in this regard, conflict with any BLP or LP policies.

The third issue – highway and pedestrian safety

11. Seven parking spaces are provided on the site but there is insufficient space for vehicles to turn on site and leave in forward gear. Drivers of vehicles are likely

to enter the site in forward gear and therefore reverse onto Main Road when leaving. The Highway Authority regard this to be detrimental to highway safety and have referred to five vehicle collisions that have occurred in the last five years on Main Road in the vicinity of the site. It is not known, however, whether any of the accidents occurred when a vehicle was being reversed onto Main Road though it is likely, if any were, that the Highway Authority would have made this clear in their appeal statement.

12. It was noted at the site visit that many other properties in the vicinity that have off-street parking also do not have sufficient space for vehicles to turn on site. Reversing onto Main Road must therefore be commonplace. Main Road is virtually straight in both directions and visibility along the road is good. The road is wide and, during the site visit, was not busy. Though this may not always be the case reversing onto the road, given that it must occur at other properties on a regular basis, is not likely to be detrimental to highway safety. Visibility for pedestrians on the pavement to Main Road is also good and it is unlikely that any pedestrian would be unaware of a vehicle reversing onto the highway. In addition, a condition suggested by the Highway Authority would require the provision of visibility splays at the entrance to protect pedestrian safety.

13. The development does not undermine highway and pedestrian safety and, in this regard also, does not conflict with any BLP or LP policies.

Other matters

14. It was noted at the site visit that there is sufficient space on site to provide adequate storage for refuse and recycling and for the storage of a minimum of ten bicycles, to comply with LP and BLP policies. The Council has suggested that conditions be imposed to require the submission, prior approval, and implementation of arrangements for these storage facilities. The imposition of such conditions overcomes the Council's concerns with regard to on-site storage.

15. All matters raised by the Council have been taken into account but they do not, either individually or collectively, outweigh the conclusions reached on the three main issues and the overall conclusion reached below.

Conditions

16. In addition to the two aforementioned conditions regarding on-site storage, which are required to ensure a satisfactory standard of development, and the condition relating to visibility splays, which is in the interests of highway and pedestrian safety, the Council has also suggested a condition that would require the maintenance of the parking area. This condition is necessary and is in the interests of highway safety. The four suggested conditions all meet the tests set out in the National Planning Practice Guidance but have been amended in the interests of clarity and precision.

Conclusion

17. The development as built does not unduly harm the character and appearance of the building and the street scene, provides acceptable living conditions for its residents, and does not undermine highway and pedestrian safety. The ground (a) enforcement appeal and the planning appeal thus succeed and planning permission has been granted for the retention of existing 1/2/3 storey building as 7 flats with 7 parking spaces, cycle storage and refuse storage at

241 Main Road, Sidcup, subject to four conditions. The ground (f) and (g) enforcement appeals do not therefore need to be considered.

John Braithwaite

Inspector