



Appeal Decision

Site visit made on 30 May 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

Appeal Ref: APP/D5120/W/22/3313841

1, 1A & 1B Central Avenue, Welling, Bexley DA16 3AX

- 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 Mrs K Sampson (Central Avenue (Welling) Ltd) against the decision of the Council of the London Borough of Bexley.
 - The application Ref 22/00682/FUL, dated 14 March 2022, was refused by notice dated 27 July 2022.
 - The development proposed is described as "Roof top extensions to provide an additional storey with change of use of the first floor and alterations to provide four x 1 bedroom flats and one studio flat. Provision of refuse and recycling storage along with six bicycle spaces."
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Central Avenue (Welling) Ltd against the Council of the London Borough of Bexley. This application is the subject of a separate decision.

Preliminary Matters

3. Since the Council determined the planning application, it has adopted the Bexley Local Plan (BLP). The policies in the BLP supersede policies from the Bexley Local Development Framework Core Strategy and saved policies from the Bexley Unitary Development Plan which were included in the Council's reasons for refusal of the planning application. I have determined the appeal based on the current applicable policies in the BLP, in addition to the policies in the London Plan (LP) referred to in the Council's reason for refusal.
4. I note from the plans before me that there are six proposed flats; and all have one bedroom, so none is a studio flat. Consequently, I consider the development proposed to be a roof-top extension to provide an additional storey with change of use of part of the first floor and alterations to provide 6 x one-bedroom flats.
5. The appellant has provided a fire statement with the appeal, within the appeal timetable. This provides additional information about the development proposal but does not change its design. Therefore, no parties would be prejudiced by me taking account of this statement in my decision.

6. I understand the Council granted permission¹ for an identical proposal in February 2019, but that permission has lapsed.

Main Issue

7. The main issues are:

- i. Whether the proposed development would provide adequate living conditions for future residents of the flats, with particular reference to external amenity space, accessibility for people with disabilities and fire safety.
- ii. Whether adequate bicycle parking would be provided.

Reasons

Living conditions – external amenity space

8. Policy D6 of the LP requires a minimum of 5m² of private outdoor space for all new self-contained 1-2 person dwellings, where there is no higher standard in a borough Development Plan Document. Policy DP11 of the BLP requires sufficient on-site external amenity space and does not set a higher standard.
9. The three flats at second floor level would each have an individual balcony that would meet the space requirements of Policy D6 of the LP. The balconies would be separated by privacy screens and, although facing a moderately busy highway, would not be overlooked by road users given their height. I therefore consider they would provide outside space of adequate quality for the three flats they would serve.
10. However, the three flats at first floor level would have no private external amenity space so would not meet the requirements of Policy D6 of the LP or Policy DP11 of the BLP. Each of these flats would have potential to be occupied by two people, so up to six people would lack access to private outdoor space.
11. I accept the appeal site is close to a town centre, is above existing commercial premises and has good access to public transport. Nevertheless, access to private outside space is necessary for the health, wellbeing, relaxation, and day-to-day activities of a household irrespective of location and proximity to shops and transport would not obviate this. I note the existing first floor flat does not have any external amenity space. I am not aware of the circumstances surrounding the creation of that flat. In any event, even if one flat with no external space were considered acceptable, this would not justify a further shortfall for two more flats. Consequently, these considerations do not outweigh the conflict with Policy D6 of the LP or Policy DP11 of the BLP.
12. The appellant has drawn my attention to the Council's previous decision¹, which concluded the proposed provision of external amenity space was acceptable. I accept that decision took account of the Mayor's Housing Design Guide (HDG) at the time. That document is planning guidance and therefore a material consideration in decision making. However, the LP was made in March 2021, after the previous decision was taken, and is part of the development plan for Bexley. Under section 38(6) of the Planning and Compulsory Purchase Act 2004, decisions must be determined in accordance with the development plan unless material considerations indicate otherwise. Consequently, even if the

¹ Application reference 18/01011/FUL

standard for external amenity space in the HDG is no different to the standard in Policy D6 of the LP, the conflict with Policy D6 as part of the development plan is determinative.

Living conditions – accessibility for people with disabilities

13. The Council identifies a conflict with Policy D7 of the LP in its decision report, although it does not rely on this policy in its reasons for refusal. Policy D7 requires all new-build dwellings to be 'accessible and adaptable dwellings' as defined in Building Regulation M4(2), which would include step-free access. Supporting text to the policy allows flexibility for flats above existing shops and some other types of 'small site' housing development. Given the proposal involves building an additional storey above existing commercial premises, provision of a lift to allow step-free access to the upper floor would be difficult without disrupting the ground floor layout. Therefore, I consider the flexibility allowed for in the LP is warranted in this case, so I find no conflict with Policy D7. I also find no conflict in this respect with Policy D5 of the LP, which requires inclusive design that takes into account London's diverse population.

Living conditions – fire safety

14. Policy D12A of the LP specifies six sets of information to be included in all development proposals to ensure they achieve the highest standards of fire safety. I am satisfied all this information is included in the appellant's fire statement and the requirements of Policy D12A would be met. I also find no conflict in this respect with Policy D5 of the LP, which requires development proposals to be designed to incorporate safe and dignified emergency evacuation for all building users.

Living conditions – conclusion

15. For the above reasons, I conclude that, while the proposed development would provide adequate living conditions for future residents of the flats with reference to accessibility for people with disabilities and fire safety, it would not do so with reference to external amenity space. This is contrary to Policies D4 and D6 of the LP and Policies SP1, SP5 and DP11 of the BLP. In addition to the standards set out above, these policies seek good design and a choice of high-quality living styles that enhance health and well-being and provide appropriate amenity for residents, irrespective of location.
16. It is also contrary to the National Planning Policy Framework (the Framework) where it requires developments to promote health and well-being with a high standard of amenity for future users. In addition, it is contrary to Design for Living – Bexley's Residential Design Guide Supplementary Planning Document, which identifies outdoor space as an essential requirement for enjoyment of a home and enhancement of quality of life.

Bicycle parking

17. Policy T5 of the LP requires 1.5 long-stay bicycle parking spaces per 2 person 1 bedroom dwelling and 1 space per 1 person 1 bedroom dwelling. The appeal proposal therefore requires 8 bicycle parking spaces. The proposal would provide 6 bicycle parking spaces, which is below the standard. I note the proposed parking spaces would be in a two-tier bicycle store and that space is constrained. However, from the evidence before me I consider there would be sufficient space to the rear of the building to explore alternative arrangements

and types of bicycle parking to accommodate 8 bicycles. On this basis, I consider the shortfall against the standard could be addressed through a condition, were the appeal to be allowed.

18. For the above reasons, I conclude that adequate provision for bicycle parking would be provided. Accordingly, I find no conflict with Policy T5 of the LP or Policy SP5 of the BLP. In addition to the standard set out above, these policies require development proposals to include active design for health and well-being and help remove barriers to cycling. I also find no conflict with the Framework where it seeks layouts that encourage cycling. Policy DP11 of the BLP does not cover cycling or active travel so is not relevant to this main issue.

Other Matters

19. The proposal would create five net additional dwellings and help to bring underused space above shops into residential use. This would make a modest contribution to meeting housing need in London and to the Framework's objective of increasing housing supply by making effective use of land in accessible locations. In addition, the proposal would contribute to local economic growth during the construction process and through future occupiers' use of local services and facilities. I give these benefits moderate weight.
20. I acknowledge the proposed internal spaces would meet required standards. However, compliance with the development plan in this respect is a neutral factor.
21. I note the start of work on the previous consent was affected by the Covid pandemic. These circumstances were not peculiar to this site and affected most proposed developments at the time. I therefore attribute little weight to this consideration.

Conclusion

22. For the above reasons, I conclude the proposal conflicts with the development plan as a whole. There are no other material considerations, including the Framework, to outweigh that conflict. For these reasons, I conclude the appeal should be dismissed.

C Carpenter

INSPECTOR