



Appeal Decision

Site visit made on 1 June 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2023

Appeal Ref: APP/D5120/W/22/3313369

70-72 Bexley High Street, Bexley DA5 1AJ

- 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 Greatglen Estates Ltd against the decision of the Council for the London Borough of Bexley.
 - The application Ref 22/00846/FUL, dated 3 April 2022, was refused by notice dated 28 June 2022.
 - The development proposed are alterations to the roof line to incorporate rear dormer with 4 roof lights to the front slope to create 1 x 1 bedroom flat in roofspace.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development cited in the planning application form differs to that contained within the decision notice and appeal form. There is no evidence that this change was formally agreed. The latter more accurately reflects the scope of the proposed plans which were submitted, consulted upon, determined by the Council and are now the subject of this appeal. As no parties' interests would be prejudiced, in the interests of clarity I rely upon that latter description for the purposes of the heading above.
3. Since the determination of the application, the Council have adopted the Bexley Local Plan (BLP), in April 2023, which revoked the Bexley Unitary Development Plan, adopted 2004. Both parties have provided updated comments to reflect this. I am required to determine this appeal on the basis of the development plan and national policy which are in place at the time of my decision and accordingly I have determined the appeal on that basis.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the host property and whether it would preserve or enhance the character or appearance of the Old Bexley Conservation Area (OBCA);
 - whether the proposal provides acceptable living conditions for future occupiers, with particular regard to internal space standards, aspect, air quality, noise and waste facilities; and
 - whether the proposal makes provision to ensure adequate fire safety.

Reasons

Character and appearance

5. The appeal site occupies a prominent corner position close to the junction of Bexley High Street and Bourne Road in the OBCA, a designated heritage asset. Given the location in the OBCA, I am conscious of my statutory duty arising from Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
6. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
7. The significance of the OBCA principally derives from the historic street pattern and the layout of the village, with plot sizes and the diverse range of building types evidence of the organic growth of the village. The appeal site is located in a commercial centre at a pinch-point with Bexley High Street and Bourne Road which widens at the north end of Bourne Parade, where there are a notable collection of traditional buildings. Nevertheless, it is acknowledged that the adjoining car park, to the rear of the appeal site, and the surrounding railway arches are unsightly and cluttered, due to modern additions such as air conditioning units, flues and bins.
8. The appeal proposal consists of the alteration of the roof line and the erection of two rear dormer extensions, one with a small balcony, along with four roof lights to the front roof slope. In regard to the increase in ridge height and introduction of dormer roof extensions, the OBCA appraisal¹ is specific in reference to the unacceptability of dormer additions which would impact on the significance of the conservation area detracting from its characteristics. Whilst the use of traditional matching materials would complement original features, and are positive factors in the proposal, the increased ridge height, coupled with the form and appearance of the dormer would substantially alter the existing rear roof profile. The roof extension would increase the proportions of the existing roof resulting in a significant visual change in the mass of the property at roof level.
9. Views of the proposal from the front in Bexley High Street may be limited to glimpses only, due to the narrow nature and vertical emphasis of the High Street itself. Nevertheless, at the rear the proposal would be highly visible from the car park and railway line. Given the uninterrupted views from the rear location the proposal would diminish the nature of the roofline and would have a detrimental impact on the integrity and overall historic character of the OBCA.
10. The appellant draws my attention to other examples of roof extensions close to the appeal site. However, from my site observations there were no other large roof dormers visible from the adjoining car park. Nevertheless, whilst I

¹ Old Bexley Conservation Area Appraisal and Management Plan, February 2009

acknowledge there is additional accommodation at the third-floor levels, from my observations these roof extensions were significantly more modest in size, and more in keeping and proportionate with the existing vernacular. In any event, these limited examples do not provide an overriding influence over the character of the OBCA, and in my view detract from it. Thus, the current proposal would exacerbate that impact.

11. The Council also has concerns in respect to the addition of the rooflights to the front roof slope. Whilst it is acknowledged that the ridge line would be raised here, it was clear from my site observations, that due to the height and scale of the existing street frontage, only oblique glimpse views of the rooflights would be possible from either Bexley High Street or Bourne Road. When viewed from the street, these would be a modest change to the Bexley High Street frontage and thus, any harm to the significance of the OBCA would be limited.
12. For the above reasons, I conclude that the proposed development would be unacceptably harmful to the character and appearance of the host property and would fail to preserve or enhance the character or appearance of the OBCA. The proposal would therefore be contrary to BLP Policies SP5, SP6, DP11 and DP14 and Policies D3 and D4 of the London Plan, March 2021 (LP) which, amongst other things, require all development to be of high-quality design; conserve and enhance the significance of heritage assets, their settings, and the wider historic environment. Nor would it accord with Part 16 of the Framework which amongst other things, seeks to conserve and enhance the historic environment.
13. Given it would be relatively localised, the harm I have identified to the significance of the heritage asset would be less than substantial. Paragraph 202 of the Framework advises where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
14. In the context of the Framework the harm would be less than substantial. Taking everything together, the public benefits of an additional dwelling that would make more effective use of the building for the appellant do not outweigh the considerable importance and weight I give to the desirability of preserving or enhancing the character or appearance of the OBCA. Consequently, the proposal would also conflict with the heritage and design objectives of the Framework.

Living conditions

15. The Government's nationally described space standard, March 2015 (NDSS) contains the minimum internal space requirements for new dwellings. These requirements are also applied in a local context within LP Policy D6 and Table 3.1 to ensure a high-quality of design. Under the NDSS and LP requirements a 1-bedroom 1-person dwelling laid out over one storey requires 39m² gross internal area, with 75% of the ceiling height provided as at least 2.3m as the minimum standard.
16. There is a dispute in regard to the proposed floor areas between the parties, and in particular the percentage of the floor area which is over the 2.3m ceiling height requirement. It is unclear from the evidence before me, whether or not the proposed dwelling would meet the required standards of the NDSS and LP in respect to this percentage. As such I have adopted a precautionary

approach, although in my opinion the proposed living space does appear cramped. Nevertheless, the LP is specific in that a minimum of 5m² of private outdoor space should be provided for 1-2 person dwellings. Both parties agree that the small external area of amenity space provided is below the LP minimum requirement. Given that the figure is a minimum standard, this is intended to act as a benchmark for high design quality. Thus, the shortfall in private amenity space would not be acceptable, and the proposal would conflict with the NDSS, LP and the BLP in this regard.

17. Policy D6 of the LP also contains a similar qualitative provision ensuring that housing development maximises dual aspect dwellings. The plans before me indicate that the dwelling is dual aspect, with rooflights to the front elevation and windows, doors and a terrace on the rear elevation. Notwithstanding the angle of the proposed rooflights, they would provide daylight into the living room/kitchen and bedroom as well as a reasonably pleasant outlook including a limited view of the high street. Occupants would not feel hemmed in given the degree of openness of the outlook and I am not certain that this would necessarily represent a poor aspect, or that the Council has presented sufficient justification to convince me that this would be the case.
18. The proposal would adjoin an existing ventilation extraction unit associated with the George public house. Due to the proximity of this unit to the proposed dwelling, future residents are likely to be particularly susceptible to odours and noise generated from this equipment, arising from cooking at the George. The appellant has indicated a willingness to commission a specialist ventilation engineer to demonstrate that amendments to the existing ventilation extraction unit are feasible and practical. However, I have not been furnished with any substantive evidence that this would be achievable.
19. Given the extremely close relationship with the proposed residential property I am not persuaded that there are suitable details available at this stage to provide measures that would satisfactorily mitigate odours and fumes. For the same reasons, I do not consider that acoustic insulation and vibration mounts would adequately control noise and vibration from the extract system either.
20. The appellant draws my attention to two appeal decisions relating to similar proposals where commercial kitchen ventilation extraction units were located below proposed residential dwellings. From the information that I have been presented, both these schemes were dismissed partly due to a lack of evidence to show that odour and noise could not be suitably mitigated. As such, these provide no favourable weight to the scheme subject to this appeal.
21. The appellant further refers to the use of a condition to secure mitigation measures to ensure that the ventilation extraction unit would meet with the required standards. Even if I had been presented with suitable information in respect to feasible mitigation measures, the kitchen ventilation extraction unit is not under the control of the appellant. As such, without a suitable planning obligation to secure any potential mitigation works a condition in this case would not be appropriate.
22. In regard to the provision of the waste storage facilities and waste collection arrangements, from the details before me, the appellant could utilise the existing arrangements used by current occupants at the site. I see no reason why these existing arrangements could not be used and/or improved to meet

with the Councils waste and recycling requirements. This could be controlled through suitable conditions.

23. Overall, I conclude that the proposal would not provide satisfactory living conditions for its future occupiers with regard to internal space standards, air quality and noise. As such, the proposal would not comply with LP Policies D3 and D6. Furthermore, the development would not respond to BLP Policies SP5 and DP11 and the objectives of the London Borough of Bexley Supplementary Planning Document: Design for Living – Bexley’s residential design guide which amongst other things, seeks to achieve high standard housing, along with the Framework, which amongst other things, seeks high quality design and a good standard of amenity for all existing and future occupants of buildings.

Fire Safety

24. Policy D12 of the LP requires all development proposals to achieve the highest standards of fire safety. It sets out several aspects to which consideration needs to be given. For major development proposals a supporting Fire Statement should be submitted, having been undertaken by a suitably qualified assessor. The current proposal is not a major development, however the appellant has submitted a Fire Statement Form² (FSF) as part of the appeal.
25. The FSF sets out the particular fire safety aspects that have been considered in relation to the appeal proposal. The supporting text to LP Policy D12 explains that the aim of the policy, is for fire safety to be considered from the outset. I am satisfied that the appellant through their additional information has satisfactorily considered the relevant fire safety aspects of the scheme consistent with Policy D12 of the LP, which requires new development to achieve the highest standards of fire safety.
26. Given the modest scale and nature of the proposed development, I have no reason to doubt that satisfactory fire safety measures could be required by condition if permission were to be granted. Providing that such a condition was worded to preclude the use of the dwelling until these matters were addressed, I conclude that this would make the development acceptable in terms of fire safety. Therefore, no conflict would arise with LP Policies D5 and D12 which seek to ensure the safety of all building users.

Other Matters

27. Whilst I am sympathetic to the fact that the appeal proposal is a resubmission attempting to address issues previously raised by the Council, following a refused scheme³, I must assess the current proposal on its own planning merits and on the basis of the information before me. This matter does not alter my view to dismiss the appeal.

Conclusion

28. Although I have found that issues relating to fire safety and waste collection arrangements could be addressed through conditions, the harm I have identified in relation to the designated heritage asset and living conditions of future occupants with regard to internal space standards, air quality and noise are, in my view, the prevailing considerations. The proposal would therefore

² Fire Statement Form prepared by London Fire Prevention Ltd dated 8th August 2022

³ London Borough of Bexley Planning Ref: 21/00690/FUL

conflict with the development plan taken as a whole and there are no other material considerations to indicate that my decision should be made other than in accordance with the development plan.

29. For the reasons given above, I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR