



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: 18 July 2023

Appeal Ref: APP/D5120/W/22/3310309

1 Viewfield Road, Bexley DA5 3EE

- 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 Joginder Chana against the decision of the Council for the London Borough of Bexley.
- The application Ref 22/01711/FUL, dated 19 July 2022, was refused by notice dated 15 September 2022.
- The development proposed is for the erection of a 2-bedroom, 2-storey detached house.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Joginder Chana against the Council of the London Borough of Bexley. This application is the subject of a separate decision.

Preliminary Matter

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. I am required to determine this appeal on the basis of the development plan which is in force at the time of my decision. Both parties have provided updated comments to reflect this, and I have taken their comments on the relevant policies of the new BLP into account as part of the appeal. This appeal has therefore been determined in relation to the policies contained within the BLP.

Main Issues

4. The main issues in this appeal are whether the development would provide acceptable living conditions for the neighbouring residents at No. 1 Viewfield Road with specific regard to enclosure, outlook and light.

Reasons

5. The existing property at No 1 Viewfield Road occupies a prominent corner position at the junction with Penhill Road. The orientation of the property provides a front elevation facing Penhill Road, with the rear of the property facing the appeal site. The rear of No 1 has been extended over time and includes a large dormer roof extension, single storey conservatory and several windows and openings adjoining the appeal site.

6. From the information before me, there is no definitive evidence in respect to the use of the rooms at the rear of No 1, and whether the windows serve habitable rooms. As such, I have adopted a precautionary approach. It is unlikely these rear rooms would receive additional light or outlook from a separate room or window, given that they do not appear dual aspect and these rear windows would provide their only outlook. Consequently, any increase in height and mass at the appeal location would have a significant impact on the outlook from the rear of No 1 by enclosing views.
7. The proposal has been designed with no windows on the flank elevation facing No 1, which would mitigate issues of overlooking and loss of privacy between No 1 and the proposal. However, the design would lead to a stark two-storey flank elevation, in close proximity to the rear elevation and garden at No 1, providing a substantial increase in height and mass. This relationship would provide an oppressive presence, looming over the proposed boundary fence, resulting in a poor outlook. The presence of a new dwelling in this location would leave occupants of No 1 feeling hemmed in due to a heightened sense of enclosure and the dominance of the proposal, to the detriment of their living conditions.
8. The distance between the proposal and No 1 is approximately 7.5m, which is significantly less than the 16m suggested distance between flank elevations and habitable rooms, as set out in the London Borough of Bexley Supplementary Planning Document: Design for Living – Bexley’s residential design guide (SPD). The appellant draws my attention to other corner properties in the vicinity that also do not meet this requirement. These include Nos 18 and 19 The Rise; Nos 167 and 169 Harcourt Avenue and Nos 83 and 85 Foots Cray Lane. However, I have been presented with no substantive evidence relating to their planning history or any planning policy in place at the time when these dwellings were built, thus I am unable to directly compare these examples. In any event, I have determined this appeal on its own merits based on all the evidence presented.
9. No evidence has been supplied in respect to any sunlight/daylight analysis to demonstrate whether acceptable levels of light can be achieved in either the potential habitable rooms or the garden area of No 1. The proposal would be positioned to the west of No 1, significantly closer than the existing property at 2 Viewfield Road and taller than the existing single storey garages. As such, the proposed dwelling would cast a longer shadow towards No 1 and its garden area than currently exists. This would be noticeable during the afternoon periods, and in particular in winter when the sun is lower in the sky. In my view, the proposal would provide significant overshadowing of the rear elevation at No 1.
10. Furthermore, as a result of the appeal proposal, No 1 would be left with less garden space at the rear, which would also experience a diminished amount of light entering the garden, providing a shaded and gloomy outdoor living space. As a result, I am not satisfied that there would be no undue harm to the living conditions of the existing occupiers regarding loss of light and overshadowing experienced from the proposal.
11. Overall, the proposal would be harmful to the living conditions of the existing occupiers at No 1, with particular reference to enclosure, loss of outlook and sunlight/daylight leading to overshadowing to the garden area and the rear

elevation of No 1. The proposal is therefore contrary to the relevant provisions of BLP Policies SP5, DP2 and DP11, which amongst other things, seek to provide high quality design and living conditions for residential occupiers. It would also fail to accord with the requirements of the National Planning Policy Framework (the Framework) which, amongst other things, also seeks a good standard of amenity for all existing and future occupants of buildings.

Other Matters

12. The appellant draws my attention to the principle of the development being acceptable; the development optimising the potential of the site in providing an effective and efficient use; and the provision of a family house where there is a demand. Nevertheless, none of these matters are in dispute, and it is the impacts of the proposed development on the living conditions of the existing nearby occupants that results in the above conclusions on the main issues.
13. I have also had regard to other benefits of the appeal scheme, in that the proposal would provide an additional unit with a suitable design, in a relatively accessible location with regard to transport. As such, I am in no doubt as to the positive value of these matters and I also recognise that the appeal proposal may well accord with various other development plan policies.
14. In addition to those matters considered above, local residents have raised concerns relating to, but not limited to: character and appearance, flood risk and highway safety. However, I note that the Council raises no objections and considered these matters at the application stage, where they did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

Conclusion

15. Given my findings above, the proposed development conflicts with the development plan when considered as a whole, and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict. The scheme also fails to accord with the requirements of the Framework.
16. For the reasons given above I conclude that the appeal should be dismissed.

Robert Naylor

INSPECTOR