



Appeal Decision

Site visit made on 11 July 2023

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal Ref: APP/D5120/W/23/3316720

Stuart House, 45-47 Halfway Street, Sidcup DA15 8LH

- 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 Miljas Limited against the decision of the Council of the London Borough of Bexley.
- The application Ref 22/02947/FUL, dated 1 December 2022, was refused by notice dated 23 January 2023.
- The development proposed is a three storey extension to provide 3 x 2 bedroom flats and creation of first floor roof extension to detached single storey rear building to provide 1 x 2 bedroom flat. With vehicle access, parking, cycle storage and bin enclosure.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the council issued its decision on the planning application, a new Bexley Local Plan has been adopted. The council have clarified that the Bexley Local Plan 2023 supersedes the Bexley Unitary Development Plan 2004 and the Bexley Core Strategy 2012 which contained policies quoted in the reasons for refusal. The council have confirmed the new policy references and the appellant has had the opportunity to comment on the new policies.
3. The description of development is taken from the planning application form though I have removed the reference to the previous planning permission for clarity.

Main Issues

4. The main issues are:
 - Whether the proposed accommodation would provide acceptable living conditions for future occupiers with regard to amenity space, internal space standards, storage, floor to ceiling heights and cycle storage.
 - The effect of the proposed development on the living conditions of the occupiers of the existing flats at the appeal site primarily with regard to noise and privacy.

Reasons

Standard of the proposed accommodation

5. Flats 2 and 3 would be located at first and second floor of the 3 storey extension. They would not have access to any external amenity space and no

communal amenity space is shown on the proposed drawings. I appreciate that balconies were not provided for the upper floor flats in the original office to residential conversion and most of the flats on site do not therefore have direct access to external amenity space. The standards set out in the development plan would not have been applied to the original conversion scheme since it was not a planning application, but an application to determine whether prior approval was required¹.

6. I note that the amenity space to Flats 1 and 4 would be in excess of the minimum standards cited by policy D6 of the London Plan. Whilst this may be the case, it would not benefit the future occupiers of Flats 2 or 3. As potential mitigation for the lack of private or communal outdoor amenity space, the appellant has drawn my attention to the parks available locally. Lamorbey Park is nearby - on my site visit it took me around 5 minutes to walk there from the appeal site. Whilst this would be a benefit to any future residents, the fact remains that this would be new build accommodation that is required to meet the residential standards set out in the development plan. I do not consider that the mitigating factor of a park nearby is sufficient to outweigh the harm caused by a lack of private or communal amenity space.
7. I note the appellant's point about being willing to provide balconies had they been made aware amenity space was an issue. Providing balconies or terraces would, however, involve a significant change to the external appearance of the building and considering the potential effects on neighbouring flats, this issue could not reasonably be dealt with by planning condition.
8. The space allocated for cycle storage in front of the single storey building does not demonstrate compliance with the requirements set out in London Plan policy T5. The room to the far end of the single storey building is labelled on the existing drawings as cycle storage, but this part of the building would be demolished in the appeal proposals. The appellant has not clarified the cycle storage arrangements for the existing residents following the demolition of this section of the building.
9. With the level of detail supplied, I cannot be satisfied that policy-compliant and safe cycle storage is capable of being provided on the appeal site. This is due to the amount of space that would be given over to car parking and the constrained nature of the site as a result of the additional flats proposed. Were all, or even the majority, of the proposed car parking spaces occupied, residents of the flats may find it difficult or inconvenient to access the proposed cycle storage due to the lack of pedestrian circulation space within the appeal site, ultimately undermining the aim of policy T5 to encourage and facilitate cycling and reduce car ownership.
10. Flat 2, which would be located on the first floor of the 3 storey extension, would comprise 68.7 square metres Gross Internal Area (GIA)². This is in excess of the minimum requirements of London Plan policy D6 for a 2 bedroom 3 person (2b3p) flat, but falls short of the 70 square metre requirement for a 2 bedroom 4 person (2b4p) flat. I am not persuaded by the council's argument that this must be considered a 2b4p flat due to the size of one of the bedrooms. There is no explanation accompanying policy D6 that refers to the interpretation of bedroom sizes when looking at occupancy. I do not consider

¹ Reference number 16/00714/PRIOR

² Figures from the Council's report.

that the bedroom labelled as 15 square metres in this case necessarily means it must be considered as a 2b4p flat, given the proposed configuration and space available and the fact that the appellant has clearly stated it will be a 2b3p flat.

11. In terms of the internal storage for the proposed flats, although there is a shortfall according to the calculation set out in policy D6, there is clearly sufficient space within each flat to provide policy compliant storage space. Similarly, in terms of the issue of achieving 75% of the floorspace having a ceiling height of at least 2.5m, the appellant has demonstrated this for all flats except those contained in the mansard roofs. Comparing the floor plans and sections, I consider it is a reasonable conclusion that 75% of the top floor GIA will be of sufficient ceiling height.
12. Although I have found in favour of the appellant in terms of the overall space standards, storage space and internal height requirements, the absence of harm from this element of the proposal is a neutral consideration in my determination of this appeal. The harm I have identified arises from the lack of amenity space to the proposed flats, along with the lack of policy compliant cycle storage space for the existing and proposed flats.
13. Taken together, the issues described above have the effect of not achieving a suitable standard of accommodation in line with the aims of policy D6 of the London Plan 2021, and SP5, DP2 and DP11 of the Bexley Local Plan 2023, all of which aim to achieve high quality residential design, along with policy T5 of the London Plan 2021 which sets standards for cycle parking and seeks to facilitate and encourage cycling. I note the council also refer to policy D4 of the London Plan in their reasons for refusal, but I do not consider this policy determinative in relation to this issue because it does not directly address the issues in dispute.

Living conditions of existing residents

14. On my site visit, I observed that there are 12 labelled parking spaces marked out on the hardstanding to the rear. Of these spaces, 6 are marked in parallel to the boundary running along Old Farm Road West, which has the effect of keeping the parked cars well away from the residential windows to the single storey building, while providing enough space for vehicles to pass between the vehicular entrance and exit.
15. Although the reconfigured vehicular access and car parking layout may be acceptable from the point of view of the Highway Authority, the proposals would have the effect of bringing car parking and manoeuvring very close to the existing single aspect flats in the rear building. Given the overall number of flats on site would increase to 16, it would be reasonable to expect that there will be more comings and goings from residents, some of which will involve vehicles manoeuvring in close proximity to the windows in the existing flats. This would have the effect of harming the living conditions that residents within these flats enjoy in terms of noise, disturbance, and privacy.
16. The appellant indicates that they would have been amenable to providing a reduced amount of car parking had that been requested by the council. Though this may be the case, I am obliged to consider the appeal scheme as presented.

17. For all the reasons set out above, I conclude that the proposed development would have an unacceptable effect on the living conditions of the residents of the existing flats at the appeal site, contrary to the aims of SP5, DP2 and DP11 of the Bexley Local Plan 2023, which amongst other things, aim to ensure that new development does not have an unacceptable impact on existing residents. The council have also referred to policy D4 of the London Plan in their reason for refusal, and again I do not consider it determinative in relation to this issue.

Planning balance

18. I note the 2019 planning permission on this site was not implemented and was determined before the adoption of the London Plan 2021 and the Bexley Local Plan 2023. The existence of the now expired permission is a consideration in the determination of this appeal. I have, however, afforded it limited weight given it can no longer be implemented and that there is an updated policy framework for the consideration of this appeal.
19. There is a planning benefit through providing 4 new flats in a sustainable location. This benefit, along with the presence of the 2019 permission, is not sufficient to outweigh the harm caused through the standard of the living accommodation proposed, along with the harm to the living conditions of occupiers of the existing flats. These factors do not therefore lead me to determine the appeal otherwise than in accordance with the current development plan.

Other Matters

20. The appellant has raised the issue of communication with the council. However, this is a matter between the main parties and has no bearing on my consideration of the appeal.

Conclusion

21. I have found that the appeal proposal would not provide an acceptable standard of accommodation and it would harm the living conditions of existing residents. As such it is contrary to the development plan read as a whole. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Accordingly, the appeal is dismissed.

L Francis

INSPECTOR