



Appeal Decision

Site visit made on 3 August 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/D5120/W/23/3314520

Land at Blenheim Drive, Welling DA16 3LY

- 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 BuildVantage Limited against the decision of London Borough of Bexley.
 - The application Ref 22/02356/FUL, dated 15 September 2022, was refused by notice dated 18 November 2022.
 - The development proposed is the erection of a single dwelling, car parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the original decision the Council have adopted, on 26 April 2023, the Bexley Local Plan (2023). This replaces the Bexley Core Strategy and remaining extant policies of the Bexley Unitary Development Plan (UDP) such that the policies of those plans cited on the decision notice are no longer part of the development plan and have no weight. I have therefore considered the appeal against the relevant policies contained within the Bexley Local Plan (2023).

Main Issues

3. The main issues are the effect of the proposed development on 1) the character and appearance of the area, 2) highway safety, and 3) the living conditions of occupants of Peregrine Court with specific regard to outlook.

Reasons

Character and appearance

4. The appeal site comprises a piece of land that is situated to the rear of properties on Edison Road, Peregrine Court, Blenheim Drive and Wycliffe Close. It is accessed from a track located on Blenheim Drive. The evidence states that the site previously accommodated a number of garages and is currently being developed for three dwellinghouses towards the eastern side of the site. These dwellings were under construction at the time of my site visit.
 5. The proposed development is for the construction of an additional two-storey dwelling that would be located on the southern boundary with Peregrine Court. The site of the proposed dwelling was shown on the previously approved plans to be parking spaces.
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6. The surrounding area is predominantly made up of two storey semi-detached properties with in-curtilage parking and front and rear gardens. There is also a small number of detached and terraced dwellings. The Peregrine Court development of flats with communal parking and gardens departs from the predominant form and arrangement of properties in the surrounding area.
7. In terms of the dwellings that are under construction, the Council set out how these are of a contemporary design, narrower in width and lower in height than the other dwellings in the area. This design, it is outlined, was considered to reflect the backland nature of the site and to allow it to sit comfortably within the wider area.
8. From the submitted evidence and my own observations on my site visit, it is clear that the appeal site, and the development taking place on it, deviate from the design, form and siting of the majority of surrounding dwellings. In this regard, the proposed dwelling would be no different. Whilst of a different design and form to the dwellings under construction, it would take some cues, in terms of materials and their arrangement, from the dwellings under construction. Therefore, although it would appear somewhat visually separate, it would nevertheless relate well to its immediate context.
9. Due to its backland setting, the appeal site is not prominent in the street-scene and has limited views from public vantage points. As has been identified, the site would be tighter than the dwellings under construction and the surrounding properties, yet this has been reflected in the design of the dwelling which is clearly intended to be a smaller contemporary dwelling in a backland setting. For these reasons I do not consider it would appear incongruous or represent the overdevelopment of the wider site. I find that the overall design is a positive reflection of the site and the development taking place on it, which would successfully integrate with the remainder of the site.
10. I therefore conclude that the proposed development would not cause harm to the character and appearance of the area. It would comply with those elements of Policies SP5, DP2 and DP11 of the Bexley Local Plan (2023) and Policies D3 and D4 of the London Plan (2021) which require, amongst other things, that development is of high-quality design that is complimentary to the surrounding area and contributes positively to the local environment. It is also required that for residential development on backland sites that the development provides well-designed housing that makes a positive contribution to the area.

Highway safety

11. The proposed dwelling would be constructed on part of the appeal site that was previously intended to be parking spaces for the three dwellings that are under construction. Following the proposed development there would be four parking spaces to serve the resulting four dwellings.
12. On my site visit I was able to park in the marked spaces on Blenheim Drive in a safe and convenient location close to the site access. I also observed that at the time of my mid-afternoon site visit, there was a moderate level of on-street parking with several spaces available. I also observed that the vast majority of surrounding properties had off-street parking, with many properties having space for more than one vehicle.

13. The Council's evidence outlines that having considered local census data, four dwellings in this location would demand five parking spaces and thus there would be a shortfall of one parking space to be accommodated on the surrounding streets.
14. The appellant has referred to the parking standards set out in the London Plan (2021) which for the proposed development and the dwellings under construction in this location should be no greater than, in other words a maximum of, 6 spaces.
15. The appellants parking survey and my own observations on my site visit would indicate that there is capacity on street to accommodate any overspill which, it is suggested in the evidence, would be between one and two spaces. On this basis I do not consider that this would result in an unacceptable impact in terms of highway safety.
16. The Council consider that the proposed layout would not allow for adequate servicing arrangements, with a lack of manoeuvring and turning space for medium to large delivery vehicles. The appellant has submitted tracking information to show that a small delivery vehicle could enter and turn in the site, however larger vehicles would need to park on Blenheim Drive. The Council have also set out that it has not been demonstrated that a fire tender can access the site.
17. There is nothing in the evidence to suggest that the siting of the proposed dwelling would have a materially greater impact in terms of manoeuvrability and turning of vehicles than the existing consent currently being implemented. Considering the proposed layout, when compared to the layout of the existing consent being implemented, I do not consider that this would somehow create a significantly worse situation in highway safety terms. There would be sufficient separation between the proposed dwelling and the site boundary to allow vehicles, including emergency vehicles, to access the remainder of the site, where following this point, the site layout remains as per the existing planning permission.
18. Giving significant weight to the existing consent being implemented, I therefore conclude that the proposed development would not have an unacceptable impact on highway safety in terms of parking provision or access arrangements. It would comply with Policies DP22 and DP23 of the Bexley Local Plan (2023) in terms of providing sustainable transport and appropriate levels of parking in developments.

Living conditions – Peregrine Court

19. Both main parties outline that the proposed development would be 10.1 metres from the rear elevation of Peregrine Court which is a part two, part three storey building comprising residential flats. It has windows to main habitable rooms on its northern elevation which directly overlook the site of the proposed dwelling. On my site visit I was able to view the separation from the site of the proposed dwelling and the residential properties in Peregrine Court.
20. There is a relatively high boundary wall which separates Peregrine Court from the appeal site. The evidence also sets out that the appeal site is slightly lower than the communal garden which is to the rear of Peregrine Court.

21. The proposed dwelling would be sited right up against the boundary wall. Almost the whole of the upper storey of the dwelling would be higher than the wall. Notwithstanding my consideration in terms of character and appearance, this part of the development would present a solid bulk to the habitable rooms of the closest flats in Peregrine Court, where due to the resulting scale and height of the development and the level of separation, it would appear oppressive and overbearing and there would be significant harm caused to the outlook from these properties.
22. I acknowledge that there is presently a degree of landscaping including trees between the Peregrine Court properties and the proposed dwelling. This would provide screening to some extent however the proposed dwelling would be clearly visible beyond this, especially at times when the trees are not in leaf. Furthermore, the continued presence of these trees cannot be guaranteed through the proposed development.
23. The Council's Design for Living Supplementary Planning Document (SPD) (2006) sets out, amongst other things, that where new development abuts existing residential development, to maintain the existing expected levels of outlook that there are 16 metres from habitable room windows to a flank wall.
24. In the proposed development the separation would be considerably less than that recommended in the SPD. I acknowledge, that as the appellant highlights, there may be occasions where a degree of flexibility is appropriate, however in this case I do not consider there would be justification for such a significant reduction in the separation that is expected to be delivered, particularly in view of the generally good levels of separation that exist in the area.
25. The appellant considers that the status of the SPD is unclear in the context of the new local plan. They refer to references in the new local plan that there is a new Design Guide SPD under preparation and suggests that the SPD has been superseded following the adoption of the new local plan.
26. There is nothing in the evidence before me to suggest that the SPD has been revoked or that it is in direct conflict with the policies of the new local plan. In terms of this main issue in the appeal, it is therefore a material consideration to which I afford weight in the appeal. Either way, I have found harm would be caused, in terms of living conditions, regardless of the status of the SPD.
27. The appellant has referred to several examples where a distance less than the amount outlined in the SPD has been accepted, or a distance less, or comparable to the amount in this case, has been accepted. I have, however, determined the appeal based on its own individual planning merits having regard to material considerations such as the SPD.
28. It is evident in the examples that have been referred to that these are at different sites, in different surroundings, including some within different planning authorities. The example within the appeal site and that at Kay Street are of greater separation than in this case and therefore not directly comparable. The example at Douglas Road, which is stated as a 6m separation, although permitted by the Council, I do not consider that it should be used as a precedent to permit further schemes or justify the harm I have identified. Additionally, in some of the examples referred to, they relate to the impact on the new development under consideration as opposed to the 'existing' as is

referred to in the SPD. Therefore, having taken these examples into account, they do not lead me to a different conclusion on the matter.

29. I therefore conclude that the proposed development would cause significant harm to the living conditions of those closest occupants of Peregrine Court in terms of outlook. It would be contrary to Policies DP2 and DP11 of the Bexley Local Plan (2023). These policies require, amongst other things, that developments, including residential development on backland sites, does not have an unacceptable adverse effect on the amenity of residents of neighbouring properties, which includes outlook.
30. The proposed development would also be contrary to the guidance contained in the SPD as set out above.

Other Matters

31. It has been brought to my attention by the Council that the proposed development would lead to a conflict with a condition imposed on the planning permission for the dwellings under construction which requires the use of parking spaces as shown on the plan for that application.
32. As I am dismissing the appeal for other reasons, it has not been necessary for me to consider this matter further. This is a matter that would either have added to the harm that I have identified in terms of my conclusions on the main issues or would have had a neutral impact from a planning point of view. In other words, a finding in respect of this matter would not alter or outweigh my conclusions on the main issues.

Planning Balance and Conclusion

33. The Government's objective as set out in the National Planning Policy Framework (2023) is to support housing growth. The proposed development would result in a small increase in the Council's overall housing number. It would also bring a small number of additional residents to the area who would contribute to the local economy. I give these matters moderate weight in favour of the appeal.
34. I also give some minor weight in favour of the proposed development due to the ecological enhancements that would occur in the proposed scheme.
35. However, although I have found that there would not be unacceptable harm to the character and appearance of the area or highway safety, the harm that would be caused to the living conditions of the occupants of Peregrine Court, attracts significant adverse weight that outweighs the benefits associated with the proposed development.
36. I conclude that the proposed development would therefore conflict with the development plan for the area when considered as a whole and there are no identified other considerations that outweigh this conflict.
37. For the reasons set out above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR