



Appeal Decision

Site visit made on 20 September 2023

By Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th October 2023

Appeal Ref: APP/D5120/W/23/3319681

51 Upper Wickham Lane, Welling, Bexley DA16 3AD

- 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 Lee Savell Properties Ltd against the decision of the London Borough of Bexley Council.
 - The application Ref 22/03132/FUL, dated 23 December 2022, was refused by notice dated 22 February 2023.
 - The development proposed is the erection of a single storey rear extension, a single storey building and conversion of part of rear ground floor commercial accommodation to create 2 self-contained flats with associated refuse and cycle storage provision.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Subsequent to the issuing of their decision notice, the Council adopted the Bexley Local Plan (2023) (the Local Plan), which supersedes the Bexley The Bexley Unitary Development Plan (2004) and the Bexley Core Strategy (2012). Consequently, I have determined this appeal against the relevant policies in the Local Plan, the London Plan (2021) (the London Plan) and the National Planning Policy Framework (2023) (the Framework). Both main parties to this appeal addressed the adoption of the New Local Plan in their respective appeal submissions.

Main Issue

3. The main issues are:
 - the effect of the proposal on the living conditions of future occupiers of the proposed dwellings with reference to outlook and privacy, and
 - the amenity of the neighbouring Welling Pentecostal Church (the Church), with reference to outlook.

Reasons

Living Conditions

4. The appeal property is a two storey semi-detached building with a nail bar (sui-generis use) at ground level and a single dwelling at first floor level (Unit 1), which have separate entrances on Upper Wickham Lane. To the rear is a partly

hard paved yard area that sits between the Church and a single storey rear extension to 49 Upper Wickham Lane (No.49). This rear yard opens directly on to an unmade access lane that leads from New Road to the rear of properties facing Upper Wickham Lane, between its junctions with New Road and Springfield Road.

5. The proposal is to provide 2 new single bedroom dwellings. One (Unit 2) by adding a flat roofed ground floor extension to the rear of the existing building, which would also include the conversion of part of the rear ancillary areas to the nail bar. This dwelling would be accessed from the passage to the side of the appeal property from Upper Wickham Lane. The second proposed dwelling (Unit 3) would be provided by the construction of a single storey flat roofed building at the rear of the appeal plot, which would be accessed from the rear unmade access lane.
6. There is an extant planning permission¹ for an additional single dwelling at the appeal property. This would generally follow the form of Unit 2 of this proposal, but with a longer rear garden. The appeal proposal adds in the additional Unit 3, which would be approximately 7.8 metres from Unit 2.
7. The two proposed dwellings would be separated by their respective garden spaces, both of which would be as wide as the appeal plot at approximately 6 metres. However, the garden for Unit 2 would be approximately 5 metres deep, whilst the garden space for Unit 3 would be approximately 2.8 metres deep. A 1.8 metre boundary fence is proposed to separate the two garden spaces.
8. Unit 3 would have a full width single living space that would also provide the kitchen and dining areas. Double glazed doors would open on to the rear garden, with windows either side. This rear living space and the garden area nearest to it would be directly overlooked from the rear full height window with Juliet balcony at first floor level to the existing Unit 1. Given the proximity of this first floor Unit 1 to Unit 3, the extent of this overlooking would not allow for an acceptable degree of privacy for the future occupiers of Unit 3 and would be experienced as oppressive.
9. The garden of Unit 3 would also be overlooked by a window to what appears to be a kitchen space in the Church. Whilst the proposal includes a 1.8 metre tall hedge with timber screen, which would be planted away from the window to screen the doors and windows of Unit 3, this would result in immediate and direct overlooking of part of the garden. This would not allow for an acceptable degree of privacy for future occupiers of this proposed dwelling and the presence of this window would be experienced as oppressive.
10. Unit 2 would also have a full width single living space also providing kitchen and dining areas. The proximity of the rear living spaces and the limited garden depth of Unit 3, even with the proposed 1.8 metre tall boundary fence between the two would allow for mutually intrusive overlooking of the living spaces of Units 2 and 3 from the rear garden spaces. This would also not allow for an acceptable degree of privacy for future occupiers of both Unit 2 and Unit 3.
11. I note the appellants point that gardens of dwellings are often close to each other. However, this is generally when houses are side by side, rather than facing directly on to each other across narrow gardens, as in the proposal,

¹ Planning Ref: 22/02281/FUL

which would lead to a more direct overlooking effect and concomitant harmful effect on privacy.

12. Further, the proximity of the 1.8 Metre tall boundary fence, which would separate the garden spaces between the two proposed new dwellings, would significantly limit the outlook from the rear of Unit 3. This would combine with the enclosing effect the flank walls of the Church and the rear single storey part of No. 49 and would have an overbearing effect that would be experienced as oppressive by any future occupiers.
13. I do not find, however, that the bedroom window of Unit 3, which would overlook the rear access lane and the fence and tree boundary to the rear Garden of 1 New Road (No.1), would have a poor outlook. The distance to the neighbouring boundary treatment and the view of the planting approximately 4 metres from the window would provide unconstrained and adequate outlook from this bedroom. Lack of harm being a neutral factor in my considerations in this instance.
14. Additionally, I find that given the distances involved and orientation between the appeal property and the garden of No.1, there would be no significant harmful effect on privacy by overlooking on the users of the garden. This lack of harm is also a neutral factor in my considerations in this instance.

Church Amenity

15. Unit 3 would have a side passage that would provide for secure cycling parking and bin storage and would result in the flank wall of this proposed dwelling being directly opposite what appears to be a window to a secondary and supporting space for the Church. The distance between the two would be approximately 1 metre. Similarly, the Church's kitchen window would, as described above, look onto part of a garden space and a hedge and screen.
16. Whilst outlook from these Church windows would be restricted by the proposal, these appear to be windows to secondary and ancillary spaces. As such, the effect of the proposal would not be experienced as overbearing or oppressive to the extent that it would limit the amenity or proper functioning of the Church during the times it is in use. The proposal would not, therefore result in any significant harm to the Church as a community facility.
17. As such, the proposal would accord with policy DP11 of the Local Plan, which seeks to ensure that developments protect the amenity of existing properties. Lack of harm in this instance is a neutral factor in my considerations.
18. The appellant has drawn my attention to planning permissions for conversion to a 14 bed House in Multiple Occupation at 39 Upper Wickham Lane² and the extension and conversion of a garage to a single storey dwelling at 26 Upper Wickham Lane³. However, I do not find that these present a direct exemplar for the proposal which is for 2 newly constructed dwellings in close proximity to each other. These other proposals would have been considered on their own individual merits, and I have done likewise with the appeal proposal.
19. For the reasons given above, the proposal would result in harmful living conditions for future occupiers of the two dwellings that would be created by the

² Planning Ref:22/01611/FUL

³ Planning Ref: 21/03418/FUL

proposed development. As such, it would not accord with policies DP1 and DP2 of the Local Plan, policy D3 of the London Plan and paragraph 130 of the Framework. Collectively these seek developments that provide well-designed housing that takes account of impacts health and wellbeing, with a high standard of amenity for future users.

20. Both the Council and the appellant have referred to the delivery of new dwellings in the Council area not meeting the numbers set by the London Plan. The proposal would result in the public benefit of 2 new dwellings suitable for small households. Whilst this is a small contribution to the housing shortage, small developments do collectively make a significant contribution to new housing.
21. However, with the presumption in favour of sustainable development and paragraph 11 of the Framework in mind, I find that the adverse impacts on potential future occupiers of granting permission in this case would significantly and demonstrably outweigh the benefits.

Conclusion

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

Victor Callister

INSPECTOR