



Appeal Decision

Site visit made on 12 February 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2024

Appeal Ref: APP/D5120/W/23/3325600

25 Hatherley Road, Bexley, Sidcup DA14 4AR

- 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 Liping Yang against the decision of the Council of the London Borough of Bexley.
 - The application Ref 23/00834/FUL, dated 12 April 2023, was refused by notice dated 8 June 2023.
 - The development proposed is creation of a 2-bed dwelling to the side of No.25 Hatherley Road, DA14.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In reaching this decision, I have had regard to the revised version of the National Planning Policy Framework ('the Framework') which was published on 20 December 2023, and I have sought the parties' comments upon it. Accordingly, no party has been prejudiced by me doing so.
3. The Council's second reason for refusal makes reference to both the effect of the development upon a tree to the south of the appeal site, and the level of information provided in relation to achieving Biodiversity Net Gain ('BNG'). The provided site location plan indicates that the tree in question was situated on land outside of the control of the appellant but, as I saw on my visit, it has since been felled.
4. Whilst the circumstances of the removal of the tree are unclear, the Council has indicated that it considers its concerns regarding the effect of the proposal upon the tree have been negated. Accordingly, I have not considered this particular issue further in reaching my decision. I have, however, had regard to the matter of BNG as this remains in dispute between the main parties.

Main Issues

5. The main issues are:
 - the effect of the proposal upon the living conditions of the occupier of nearby residential properties with particular regard to outlook, and;
 - whether the proposal would deliver biodiversity net gain.

Reasons

Living conditions

6. The appeal site comprises an area of residential garden located to the south of 25 Hatherley Road. A public footway runs parallel to the garden, with a terrace of two-storey residential dwellings beyond. The area is characterised by the uniformity of dwellings and an open character which is derived from a general lack of formal demarcation of front gardens, and the gaps between groups of buildings.
7. The Bexley Design for Living Supplementary Planning Guidance ('the SPG') states that where new development abuts existing residential development, that there are 16 metres from habitable front windows to a flank wall.
8. A number of properties on Danehill Walk have front elevations which face the three-storey gable end of the appeal property. The Council has indicated that the separation between these front elevations and the appeal property is currently around 15 metres and would be reduced to around 11.3 metres as result of the proposal. The figures provided by the Council have not been disputed, and I have therefore used them in reaching my decision.
9. The area has a generally open character, derived partly from the prevalence of open front gardens, however, it is evident that occupiers of dwellings on Danehill Walk currently have a level of outlook that is below the standards set out in the SPG. The proximity of the proposal to properties on Danehill Walk and its greater height would result in this level of outlook being further reduced to such an extent that occupiers of neighbouring properties would be faced with a substantial three-storey gable elevation at close proximity. Although the proposal would not lead to a loss of sunlight or loss of privacy, the proposal would nevertheless be likely to lead to rooms within neighbouring properties having an oppressive and enclosed atmosphere.
10. I acknowledge that there are existing examples in the area where separation distances between existing dwellings are below the levels set out in the SPG. The cited example between numbers 27 and 29 Hatherley Road and 18 Danehill Walk involves the rear elevations of the larger, three-storey properties looking towards the gable of a smaller, two-storey property. Whilst the relationship is close, the greater scale of 27 and 29 Hatherley Road means that it is not comparable to the situation which is before me.
11. I have also been directed to the relationship between numbers 10 and 31 Danehill Walk. Although there is some difference in levels between these properties, they are both two-storey in nature. This situation is therefore also not comparable to the appeal scheme.
12. Additionally, although I have been provided with limited evidence in relation to the circumstances of these examples, they appear to relate to properties as originally built and which appear to be broadly contemporaneous, and pre-date the standards set out in the SPG. They do not, therefore, justify the harm that I have found.
13. The proposal would lead to unacceptable harm to the living conditions of occupiers of nearby residential properties with particular regard to outlook. It would be contrary to Policy DP11 of the Bexley Local Plan ('BLP') which, amongst other factors, states that development proposals should ensure that

appropriate levels of outlook are provided and that existing properties' amenity is appropriately protected. It would also conflict with Chapter 12 of the Framework which highlights the importance of creating high quality places which have a high standard of amenity for existing and future users. In addition, the proposal would fail to accord with the separation distances set out within the SPG.

Biodiversity Net Gain

14. There is no evidence before me which establishes a biodiversity baseline for the site, which although currently used as a residential garden, is still likely to be of some, albeit potentially minor, biodiversity value. The proposal would lead to much of the appeal site being occupied by a dwelling which would lead to a loss of some of the existing garden area.
15. Whilst the proposal would incorporate an integrated bird box within the gable wall of the dwelling, without any assessment of the biodiversity value of the appeal site, or the effect of the proposal on any such value, it has not been shown that this measure would deliver a sufficient degree of mitigation in order to achieve BNG.
16. The proposal would fail to deliver BNG. It would therefore be contrary to BLP Policies DP20 and London Plan Policy G6, which together, and amongst other factors seek for developments to aim to deliver BNG, and state that development will only be permitted where it can be demonstrated that completion of the development will result in measurable long-term net gain for biodiversity, as demonstrated through the application of an acceptable measurement, and/or impact assessments.
17. The Council has also referred to BLP Policy DP2, however this policy does not make reference to BNG. It is not, therefore, determinative in my consideration of this main issue.

Other Matters

18. Even if I were to agree that the proposal would not harm the character and appearance of the area, this is a neutral factor which would not weigh in favour of the proposal.

Planning Balance

19. The proposal would make a modest contribution of a single dwelling towards boosting the supply of housing, in accordance with Paragraph 60 of the Framework. I have no reason to doubt that it could be delivered quickly and it would be located in a location close to shops and services. I afford these factors moderate weight in favour of the proposal. It would also have economic benefits for a temporary period during construction and thereafter following occupation. Given the proposal comprises a single dwelling, I afford these benefits minor weight.
20. However, I have found that the proposal would harm the living conditions of occupiers of nearby residential properties with particular regard to outlook and it would fail to deliver BNG. It would conflict with the development plan taken as a whole. Although the proposal would result in some benefits, these would not outweigh the harm and conflict with the development plan that I have identified.

Conclusion

21. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR