
Appeal Decisions

Site visit made on 5 June 2024

by S Leonard BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decisions date: 14th June 2024

Appeal A: APP/D5120/W/23/3330716

Rear of 67 Station Road, Sidcup, Bexley DA15 7DR

- 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 Mrs Serduletz against the decision of the Council of the London Borough of Bexley.
 - The application Ref 23/00661/FUL, dated 23 March 2023, was refused by notice dated 18 May 2023.
 - The development proposed is erection of two-storey detached dwelling.
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Appeal B: APP/D5120/W/23/3330718

Rear of 67 Station Road, Sidcup, Bexley DA15 7DR

- 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 Mrs C Serduletz against the decision of the Council of the London Borough of Bexley.
 - The application Ref 23/00671/FUL, dated 23 March 2023, was refused by notice dated 19 May 2023.
 - The development proposed is erection of a 2-bedroom chalet bungalow.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matter

3. Since the refusal of the applications, the subjects of these appeals, a revised version of the *National Planning Policy Framework* (the Framework) was published in December 2023. The main parties have had the opportunity to comment upon the revised Framework in respect of the appeals, and I have taken it into account where relevant to my decisions.

Main Issues

4. The following main issues are common to both appeals:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of the occupiers of 63 and 65 Station Road, with particular regard to privacy impacts;

- The effect of the proposal on the living conditions of the occupiers of 67 Station Road, with particular regard to outdoor living space; and
 - Whether the proposal provides adequate evidence in respect of Fire Safety.
5. The Council's second reason for refusal in respect of Appeal B differs from that in regard to Appeal A in that it excludes reference to the impact upon the outdoor living space of 67 Station Road. I find that this issue applies to both appeals, since the proposed development plot is identical in each case.

Reasons

6. There are two proposals before me, each the subject of its own separate appeal. Both appeal schemes propose the redevelopment of an area of grassed land to the rear of 67 Station Road with a single detached dwelling. The layout of both schemes comprises the positioning of the new dwelling towards the rear of the severed plot, with pedestrian access via the existing vehicular access that runs alongside No.67. In each case, outdoor living space would be provided around the new dwelling, together with facilities for on-site cycle parking and refuse storage. Neither scheme would provide vehicular access or on-site car parking.
7. The differences between the two schemes primarily relate to the detailed design of each proposed dwelling, having regard to mass, height, roof form, fenestration, footprint, and internal layout. Appeal A relates to a contemporary style, 3-bedroomed, two-storey, flat-roofed building incorporating a green roof. The building to which Appeal B relates would comprise a more traditionally designed, 2-bedroomed chalet bungalow, incorporating a steeply pitched roof. It would have a smaller building footprint, so that it would be sited approximately 0.5m further away from the eastern site boundary with No.67.

Character and appearance – Appeals A and B

8. The site lies within an established, primarily residential, urban area to the north of Sidcup High Street. It comprises a fenced off, vacant, grassed, rectangular-shaped parcel of land. This lies within a back land location to the rear of 67 Station Road, which is a two and a half-storey property used as five flats. The rear parking area for these flats separates them from the appeal site, and the vehicular access drive to the parking runs between Nos. 67 and 69 and provides pedestrian access to the appeal site.
9. Nearby dwellings in Station Road, Crescent Road and Manor Road include a mix of two, three and four storey properties, comprising houses and flats. They are arranged linearly in groups of road-facing buildings forming a perimeter arrangement of buildings, having a strong sense of regularity of building layout. Street-facing properties are arranged in rows with consistent front building lines, with gardens, and in some cases, rear parking areas, behind.
10. These include the row of period properties facing Station Road within which No.67 is located and the period houses to the southwest of the appeal site which face onto Crescent Road.
11. A prevailing absence of rear buildings, aside from ancillary outbuildings, combined with often long back garden depths, has resulted in a distinct and spacious separation between the rows of linear street-facing built development, comprising a defining and positive characteristic of the townscape.

12. Any garages/outbuildings within rear gardens tend to be modest in size and ancillary in function to the dwellings to which they relate. As such, they do not fundamentally alter the established layout of frontage residential development with, often generous, private and secluded gardens in between.
13. The presence of several non-residential properties such as the doctor's surgery at No.69 and children's nursery at No.61 and the existence of some rear parking areas, do not significantly erode the overall consistency of layout and the spaciousness which exists to the rear of the frontage buildings.
14. Moreover, similar perimeter block arrangements of built development continue to the south of Crescent Road and west of Christchurch Road. As such, this layout of development is a key defining character of this part of the west side of Station Road.
15. In addition, many of the rear gardens contain mature trees and hedging which contribute to a verdant townscape behind the frontage development. These include several mature trees close to the rear boundary of the appeal site, in particular a Sycamore and 2 Wild Cherry trees which, due to their large size and close positioning to each other, provide a substantial green backdrop to the appeal site. This is visible from the public realm in Station Road through side gaps between buildings and it makes a positive contribution to the street scene by providing a green background and intervention to built development which enhances the environs around the frontage development.
16. Moreover, notwithstanding that the appellant has stated that the site was formerly left in an unkempt and untidy state, I saw on my site visit, that it is currently well-maintained and laid to lawn. As such, although the appeal site has been severed from No.67, its undeveloped and grassed nature has the appearance of a private garden and it makes a positive contribution to the aforesaid spacious and verdant area which forms a significant part of the urban grain which prevails within the site vicinity.
17. Both appeal schemes A and B, would each introduce a new dwelling onto the appeal site which would clearly be perceived as an independent two storey residential unit. This layout of development would be at odds with the prevailing pattern of frontage development and would intrude upon and significantly erode the spacious separation area which forms the backdrop to the road-facing properties.
18. In the case of each of the proposed dwellings, there would be an unsympathetic positioning of the new building within the surrounding established layout of perimeter buildings. The incongruous nature of the proposal would be compounded by the position of each of the proposed dwellings near the rear of the appeal site. In each case, due to a combination of the new building height, massing, footprint and close proximity to the west and north site boundaries in particular, the proposals would result in an unduly cramped and congested form of development. This, despite the existence of some relatively high density of development within the site vicinity, would overly intensify the quantity of built form on the site, to the detriment of the spaciousness which characterises the land to the rear of the frontage properties.
19. Two-storey development and higher, per se, forms part of the prevailing townscape. However, notwithstanding this, within the context of the proposed

development of the appeal site, the two-storey nature of each proposal in this back land location, where domestic outbuildings comprise an appropriate scale of built development, would serve to compound the unduly cramped and overly intensely developed nature of the proposal.

20. The result would be a discordant layout of built development that would be unsympathetic to, and would harmfully erode, the established pattern of built development along this part of the west side of Station Road.
21. The harm that I have identified to the prevailing character of the area would not be justified by the fact that the development would not be widely perceived from the public realm of the surrounding streets. Moreover, it would be visible in views from the rears of surrounding properties, from where it would be viewed as an incongruous and visually intrusive form of development, especially when viewed from the rear gardens of 63 and 65 Station Road which abut the site and from the host property at No.67.
22. Since the determination of the planning applications, the appellant has submitted a Tree Survey and Arboricultural Impact Assessment in accordance with BS5837. This confirms that each development proposal would encroach into the Root Protection Area and canopy of the Sycamore which is within the appeal site and is of high visual amenity value. As such, a specially engineered foundation design would be required to minimise the impacts upon the tree roots, together with ongoing pruning works to facilitate the build and ensure no building encroachment subsequently.
23. The appellant has not provided further details of the proposed foundation design, nor submitted an Arboricultural Method Statement. As such, I find that there is insufficient information before me to enable me to be satisfied that the protection of this tree can be ensured by means of a planning condition. In coming to this view, I have taken account of the close proximity of the proposed development to this tree and the large amount of canopy overhang of this part of the appeal site that I observed during my site visit. In addition to root protection requirements during construction, there could also reasonably be pressure from future occupiers for future tree pruning or tree removal given the proximity of the tree to the proposed building in the case of both appeals.
24. The appellant has drawn my attention to other existing back land residential developments¹. These sites are not within the perimeter layout of built development on the west side of Station Road that forms the immediate vicinity of the appeal site. Based on the information before me, I am not persuaded that the circumstances in respect of those developments are directly comparable with those of the current appeal proposals, including in respect of site location and prevailing built urban layout, site planning history and development plan context. As such, the existence of those properties does not alter my conclusion in respect of the appeal schemes before me, which must be treated on the merits of each proposal and the appeal site circumstances.
25. For the above reasons, I therefore conclude that the development proposals the subject of both Appeal A and Appeal B would materially harm the character and appearance of the area. As such, they would be contrary to Policies DP11 and DP21 of the *Bexley Local Plan* (2023) (the Local Plan) and Policies D4 and G7 of the *London Plan* (2021) (the London Plan). These policies, amongst other

¹ 'Maltings Mews', 'Belvoir Cottages' and 'Yew Court'

things, seek to ensure that new development is of a high-quality design, that, inter alia, the layout, height, scale, and massing are complimentary to the surrounding area, and that it protects and retains important trees of value.

26. For similar reasons, both proposals would also be contrary to Chapter 12 of the Framework which seeks to achieve well-designed and beautiful places (paragraphs 131 and 135) and the retention of existing trees wherever possible (paragraph 136).

Privacy – Appeals A and B

27. An element of overlooking to neighbouring properties is not uncommon within urban built-up residential areas and often occurs because of upper floor rear elevation windows looking onto the rear gardens of aligned side neighbours as part of the original layout of properties.
28. However, both appeal schemes would introduce new built development into the long-established urban environment that would impact upon the privacy enjoyed by the occupiers of the houses at Nos. 63 and 65.
29. In the case of both appeal schemes, the proposed new dwelling would be sited approximately 2.5m from the rear boundary of the appeal site and approximately 4.28m from the south side boundary. The garden of No.63 wraps around that of No.65, so that it directly abuts the rear boundary of the appeal site. Notwithstanding that this element of the garden comprises the rear-most part of a generously sized outdoor living area, I saw during my site visit that it is laid to lawn and includes domestic paraphernalia (football goal and children's play slide) that suggest it is an actively used part of the garden.
30. Both appeal scheme proposals would include rear elevation principal windows at ground floor (bedroom and living room) and first floor (bedroom) level. A low height fence currently separates the site from the rear garden of No.63, so that the proposed rear elevation windows would directly look over the neighbouring garden at close proximity, harmfully impacting upon the privacy currently enjoyed by the neighbouring occupants when using this part of the garden.
31. The ground floor window impacts could potentially be mitigated by the installation of replacement higher boundary fencing than that which currently exists. However, this would not effectively address the impacts arising from the 2 first floor rear elevation bedroom windows of scheme A and single bedroom window of scheme B, which in all cases would be the sole windows serving those bedrooms.
32. Both scheme proposals would include a wide opening with bi-fold doors/windows on the south elevation serving the ground floor kitchen/dining room and leading out onto an outdoor seating area to the side of the building. Thick boundary hedging adjacent to this part of the rear garden of No.65 would currently provide adequate screening to prevent loss of privacy from the proposed south elevation fenestration, and the appellant has confirmed the intention to retain this to provide privacy screening.
33. However, there is no guarantee that this hedging will remain in the future. Nor is there sufficient evidence before me that it will provide a sufficient level of screening in the winter months when leaf cover may be significantly less. Moreover, its replacement with a solid fence/wall would reasonably be likely to

involve the removal of the existing hedging thereby resulting in potential harm to townscape appearance and biodiversity. As such, I am not satisfied, based on the information before me, that either of the appeal schemes are capable of satisfactorily addressing the potentially harmful privacy impacts upon the occupiers of No.65 arising from the proposed ground floor openings close to that side boundary.

34. Also, in the case of Appeal A, there would be a large landing opening at first floor level on the south elevation. This would be set further back from the side boundary than the ground floor windows. However, due to its large size and position in relation to the side boundary, its presence would be readily apparent to users of the neighbouring garden.
35. Notwithstanding the proposed incorporation of brise soleil/shutters to prevent direct overlooking, this would rely upon the continued retention of such measures, and even with their inclusion, would be reasonably likely to result in perceived overlooking to the users of the garden of No. 65.
36. For the above reasons, I therefore conclude that the development proposals, the subject of both Appeal A and Appeal B would materially harm the living conditions of the occupiers of 63 and 65 Station Road, with particular regard to privacy impacts. As such, both developments would not accord with Local Plan Policy DP11 and London Plan Policy D4, in so much as these policies require proposed development to ensure that the amenities of existing properties are appropriately protected.
37. This is generally consistent with guidance within the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health, and well-being for existing and future users (paragraph 135).

Outdoor living space – Appeals A and B

38. The appeal site is devoid of built development and is laid to grass. The information before me is that the land originally formed part of the site of a dwelling at No.67. It has subsequently been severed, and is within separate ownership, and the current occupiers of No.67 have no right of access onto the land.
39. In 1986 planning permission² was granted for the conversion of No.67 into five self-contained flats with off-street parking. This is the current use of that property. It has a small area of garden immediately to the rear of the building, which is separated from the appeal site by a hard surfaced parking area which serves the flats. The appellant states that the appeal site has historically not been used as garden land for the flat occupants. Moreover, it has submitted historic aerial photographs in support of it not being used as a garden since 2003, and marketing information in respect of the sales of flats within No.67 to demonstrate that the appeal site was not available to flat purchasers as outdoor living space.
40. Neither main party has provided details of the approved flats development layout. As such, there is no cogent evidence before me that the appeal site was originally approved as outside living space in connection with the existing flats at No.67. Therefore, based on the submitted evidence, and in the absence of any compelling evidence to the contrary, I find that there would be no direct

² LPA ref 86/00013/FUL granted February 1986

loss of outdoor living space for the occupiers of No.67 as a result of either of the appeal schemes.

41. For the above reasons, I therefore conclude that the development proposals, the subject of Appeals A and B would not materially harm the living conditions of the occupiers of 67 Station Road, with particular regard to outdoor living space. As such, the development would accord with the aims of Local Plan Policy DP11 and London Plan Policies D4 and D6, in so much as these policies require proposed development to ensure that the amenities of existing properties are appropriately protected and that communal outside amenity spaces provide sufficient space to meet the requirements of the number of residents.
42. This is generally consistent with guidance within the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health, and well-being for existing and future users (paragraph 135).

Fire Safety – Appeals A and B

43. The proposals under Appeals A and B do not comprise major development for the purpose of London Plan Policy D12 (B) and so there is no requirement for a Fire Statement produced by a third party, appropriately qualified assessor, to be submitted at planning application stage.
44. Nonetheless, Policy D12 seeks to ensure that the fire safety of developments should be considered from the outset, and that how a building will function in terms of fire, emergency evacuation, and the safety of all users should be considered at the earliest possible stage to ensure that the most successful outcomes are achieved.
45. Whilst acknowledging that fire safety compliance is covered by the Building Regulations, Policy D12 aims to ensure that developments achieve the highest standards of fire safety by addressing a number of criteria before building control application stage, taking account of the diversity of, and likely behaviour of, the population as a whole. These matters are listed under Policy D12 (A) criteria 1 - 6.
46. In the case of Appeals A and B, the appellant has confirmed the intention to incorporate active and passive fire protection and a convenient means of escape within the proposed property. These proposed measures respond to criteria 2 and 3 of the above. However, information has not been provided to address all the matters listed, including the requirements of paragraphs 3.12.3 and 3.12.4.
47. Moreover, the appellant appears to rely upon the availability of adjacent third-party carparking land to address criteria 4 and 5 in respect of the provision of fire services access. These considerations are relevant to the proposed layout of the site and a decision to grant planning permission, so cannot be left to a condition.
48. Accordingly, based on the information before me, I find that the proposals, the subject of Appeals A and B do not provide adequate evidence in respect of fire safety, as required by London Plan Policy D12.

Other Matters and Planning Balance

49. Whilst the Framework encourages the effective use of land in meeting the need for homes and requires the Council to approach decisions in a positive and creative way, this is not unqualified.
50. I have noted that both appeal proposals represent an amended scheme from that which was the subject of a previously withdrawn application³. Whilst the changes to the scheme are noted, including changes to the south elevation upper floor fenestration, this does not alter my findings with respect to the current proposals.
51. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social, and environmental objectives. When judged against some of the core planning principles of the Framework, both appeal proposals would perform well in that they would be within an accessible location close to the facilities and services and public transport connections in Sidcup.
52. They would contribute towards the Council's housing supply and, in the case of Appeal A, would provide a dwelling for which there is an identified demand within the Council area, and they could be built out relatively quickly, having regard to paragraph 70 of the Framework. However, by providing one additional dwelling only, the contribution would be very modest.
53. In the case of each appeal scheme, there would also be modest short term economic benefits as a result of the construction of the development, and longer term economic and social benefits from the occupation of the new dwelling.
54. The Council has raised no objections in respect of matters including parking, highway safety, on-site biodiversity, climate change mitigation, living conditions of future occupiers of the development, flood risk and drainage. Also, I have found no harm in respect of the outdoor living space for No.67. In terms of the planning balance, the lack of identified harm is a neutral factor.
55. The harms I have found in respect of the impacts on the character and appearance of the area, the living conditions of neighbouring occupiers and insufficient information in respect of fire safety are, together, significant and are not outweighed by the stated benefits.

Conclusion

56. The proposals, the subjects of Appeal A and Appeal B conflict with the development plan taken as a whole, and there are no material considerations, including the Framework, worthy of sufficient weight which indicate that the proposals should be determined other than in accordance with the development plan.
57. For the reasons given above, I therefore conclude that both Appeal A and Appeal B should be dismissed.

S Leonard

INSPECTOR

³ LPA ref 22/01886/FUL