



Appeal Decision

Site visit made on 13 August 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2024

Appeal Ref: APP/D5120/W/23/3334620

16 New Road, London SE2 0QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Lee Lane (Turnbull) against the decision of the Council of the London Borough of Bexley.
 - The application Ref is 23/01192/FUL.
 - The development proposed was described as 'demolition of existing dwelling and double garage, and the construction of 9no units, comprising 8no apartments and one house, with associated access and parking'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed house in the appellant's description of development in the banner above has also been described as a 'chalet bungalow' and 'unit 9'. I refer to it as a dwelling and apart from the dwelling the Council did not object to the proposal.

Main Issues

3. Accordingly, the main issues are:
 - the effect of the dwelling on the character and appearance of the area, including Metropolitan Open Land (MOL); and
 - whether the dwelling would provide satisfactory living conditions for future occupants, having regard to outlook and whether there would be sufficient on-site communal external living space for future occupants of the apartments.

Reasons

Character and appearance of the area, including MOL

4. The appeal site comprises a bungalow towards the front of a long, narrow rectangular shaped garden with a single-storey double garage outbuilding next to the rear boundary. It is broadly typical in these respects to some other residential plots either side of it along a short section of New Road. This development is in a built-up area and backs onto MOL that has the appearance of a common, on a gentle slope interspersed with trees. The sequence of distant dwellings in this part of New Road, the mainly open or landscaped swathe of intervening back gardens and some subservient domestic

outbuildings next to rear boundaries can be seen from this part of the MOL, in its setting bordering it. This graduated transition in the pattern and layout of residential development between the built-up area along this section of the New Road corridor and this part of the MOL behind is locally distinctive.

5. The dwelling would not be in the MOL or restrict activity in it. However, it would replace the garage in essentially the same part of the site. The rear elevation would be only slightly further from the edge of the MOL and significantly wider than the garage so stretch further across the site to fill a majority of its width along the boundary with the MOL. The dwelling would also extend significantly further into the site, towards the rear elevation of the taller proposed three storey block of 8 apartments, which itself would extend further back in-depth on the site from New Road than the bungalow.
6. Despite a hipped roof and some living space within it, the front and rear elevations and also (as shown in some of the submitted plans) the side and rear elevations of the dwelling would be around 4m tall to main eaves, so approaching two-storey height. Combined with the length and width of the dwelling the appreciable scale, massing and overall bulk of built form would infill most of this part of the site with a commensurate reduction in openness and an overbearing presence next to the MOL. It would also appear cramped on the site because of a relatively small residual gap to the block of apartments. The backland position of the dwelling would be manifestly out of keeping with the prevailing pattern and layout of frontage residential development in this section of New Road. Overdeveloped in this way on this part of the site, the dwelling would result in an unduly abrupt and unsympathetic flux between New Road and the MOL.
7. Though including high quality materials, the dwelling would have little in common with the size of the existing garage or other domestic outbuildings at or towards the ends of back gardens nearby. Nobody has a right to a private view but in this case the dwelling would be clearly evident to the occupiers of properties either side of the site as something more substantial and different in use than the garage. Its isolated siting would also be unduly prominent and conspicuous so jar in short and longer distance public views from this part of the MOL. Public comprehension of MOL is not a purely insular experience that stops at the defined boundary of the MOL. It is also informed by a wider appreciation of the MOL in its immediate context. In this case, the dwelling would unduly erode inherent qualities of the MOL as distinguishable from the built-up area along New Road by virtue of this largely undeveloped back garden buffer next to it.
8. An existing tree and part of a group of trees on the site would be removed further revealing the dwelling in views from the MOL. A condition could secure new landscaping but trees indicated in the submitted plans would not be along or near the rear boundary with the MOL so not equivalent replacements. In any event, landscaping should not be a means to screen fundamentally inappropriate development to begin with.
9. Other houses beyond both ends of this section of New Road were planned infill schemes for more units in larger pockets of land. Some in Manorside Close face the same part of the MOL but are set further back than would be the dwelling and lower down in the slope, partly inset into ground level. Also, on one side are experienced as next to an elevated main road and wider built-up area to

the west. The houses in Woodland Way have no meaningful visual or spatial association with this part of the MOL or the site because of topography and intervening woodland. Planning permission for a large nursing home elsewhere in the borough, adjacent to MOL, was granted before the BLP was adopted¹. That site had a limited role in the setting of that MOL, bordering only a small part of a corner where rear gardens of houses did not enhance its open character and the proposed building was not next to that MOL. As such, none of this other development provides a suitable or appropriate context for a dwelling inserted into this part of the site next to this part of the MOL.

10. The other back gardens in this section of New Road, including those with domestic outbuildings, are very similar in size, layout and appearance to the site. If planning permission was granted in this appeal for the dwelling there would be a real prospect of further repetition. Such a discordant cumulative impact would fatally undermine the integrity and cohesion of the existing pattern and layout of residential development in this section of New Road and completely alter the existing nuance of how the MOL is presently experienced.
11. I find that the dwelling would have a significant negative, harmful effect on the character and appearance of the area, including this part of the MOL. Consequently, the proposal is contrary to Policies SP8 and DP11 of the Bexley Local Plan April 2023 (BLP) and Policies G3 and D4 of The London Plan March 2021 (LP). These include that development should exhibit good design, enhance the quality of use of MOL, protect landscapes and visual amenity, resist harmful development of gardens and protect an area's character having regard to layout, height, scale and massing.

Living conditions of future occupants

12. The appellant originally promoted the development as including a '3-bed family dwelling' but, also considering floor area, there is no objective evidence that it would be 'perfect for downsizers' as the appellant now suggests. It is likely that one or both of the first floor bedrooms would be in use, potentially for children. The only windows in these main habitable rooms would be small rooflights with high cill levels at least 1.5m above floor level so views from these rooms would be inherently restricted, even for adults. Not everyone would be tall enough to have a meaningful appreciation of outside activity or other features of interest, instead just the expanse of the sky. People using these rooms would therefore experience an uncomfortable sense of detachment or containment.
13. The rooflights would already be quite low down in the roof slope, close to eaves level. Setting the rooflights further down would give an unduly compressed appearance to this part of the roof. In this position they would also appear unbalanced in relation to the expanse of vertical elevation below, particularly where no other windows are proposed. The loft conversion granted permission by the Council elsewhere was at an existing, much larger house and on the face of the plans, those third storey rooflights appear less likely to be for primary or main bedroom living space². Dormer windows high up in the roof of that significantly taller house could have otherwise added significant bulk and mass to an already large building or could have been out of keeping with that house or its surrounding context. Rooflights may not influence marketing or 'saleability' and provide good natural light or ventilation, so can be suitable for

¹ APP/D5120/W/22/3293225

² 22/02409/FUL

creating additional or secondary living space at an existing property. However, I do not consider them to be a satisfactory substitute for conventional windows for intended main habitable rooms in a new dwelling. The objective should be satisfactory living conditions by good design from the outset.

14. It is common ground that for flatted development in the borough amenity space should be a minimum 45% of the plot area, including balconies, decks and roof gardens³. The Council has not provided a sqm floor area figure or plan to show how it arrived at the percentage that it has, but it says the combined private and communal amenity space for the apartments would be about 20% of the plot and if so, a substantial shortfall. The appellant's plan and calculation suggests this figure would be 46.7%⁴, though 49% appears in some submitted plans.
15. However, and either way, the appellant's 'ground level amenity' area includes land in a plot for the apartment block that stretches right up to, and level with, the front elevation of the proposed dwelling. This would be next to the front entrance door and habitable room windows at one end of the main ground floor open plan living space. As a result there would be no front garden, as one would usually expect for a dwelling, or any defensible space between it and the communal amenity space for occupants of the apartments. While the MOL is nearby, given that one of the appellant's figures is so close to 45% and is inconsistent with another, it is not clear if there would be a shortfall in amenity space on the site, or by how much, or if it would therefore be significant.
16. I find that the dwelling would not provide satisfactory living conditions for future occupants, having regard to outlook. Furthermore, I am not satisfied the appellant has demonstrated that there would be sufficient on-site communal external living space for future occupants of the apartments. Consequently, the proposal is contrary to BLP Policy DP11 and LP Policy D4. These seek to achieve good, high-quality design and include that new buildings should ensure appropriate levels of outlook and provide sufficient useable on-site external amenity space relative to the scale of the proposed development.

Other Matters

17. The appellant considered that the Council was able to demonstrate a 5 year housing land supply (5YHLS), at 5.25 years. The Council did not dispute this in its appeal statement. It maintains that it no longer needs to produce a 5YHLS figure in this appeal due to relevant provisions of the National Planning Policy Framework published in December 2023 (NPPF). The Council did not fail the 2022 Housing Delivery Test, at 91%.
18. Including after giving due regard to interested party comments, I agree with the Council that the proposal would be satisfactory in other respects. The absence of harm in those regards is a neutral factor in my decision.

Planning Balance

19. The site is in an area where residential redevelopment of small sites of this size and type is acceptable in principle under the development plan. A net gain of 8 units would support the Government's objective in the NPPF of significantly boosting the supply of new homes and make efficient and effective use of a

³ Design for Living Bexley's residential design guide Supplementary Planning Guidance, January 2006

⁴ Appeal statement Appendix 8

windfall site that could be built relatively quickly, providing employment during the construction phase and a Community Infrastructure Levy payment to the Council. Subject to conditions it would also be low-carbon energy and water efficient and there would be ecology enhancement at the site. These outcomes would achieve aims of the NPPF to sustain the local economy, provide supporting infrastructure, help meet the challenge of climate change and secure significant bio-diversity net gain. These are all important considerations and the proposal would make a notable contribution in these regards, so these public benefits have moderate weight in favour of the appeal.

20. On the other hand, the dwelling would cause material harm to the character and appearance of the area, including MOL, and to the living conditions of future occupants. This would be at odds with the development plan, which is consistent in these respects with other aims of the NPPF. These include to achieve well-designed places with development that is visually attractive in layout, adds to the overall quality of the area and is sympathetic to local character of the surrounding built environment. It should also function well with a high standard of amenity for future users. In my view, the support in the NPPF to delivering housing does not dispel that residential development must be satisfactory for those who would experience it locally and for those who would live in it. Once built the development would be permanent, so these considerations have substantial weight against the appeal.
21. The benefits of the proposal do not, therefore, outweigh the harm. Even if the Council does not have a 5YHLS the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. In those circumstances, the presumption in favour of sustainable development (the 'tilted balance') would not apply in this case.

Conclusion

22. The proposal does not comply with certain policies of the development plan and conflicts with some provisions of the NPPF. There are no other material considerations to indicate that the decision in this case should be made other than in accordance with the development plan taken as a whole⁵, consistent with relevant parts of the NPPF.
23. Consequently, for the reasons given above the proposal is unacceptable so the appeal does not succeed.

Robin Buchanan

INSPECTOR

⁵ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended)