

Appeal Decision

Site visits made on 29 April 2024, 1 July 2024 and 19 August 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

Appeal Ref: APP/D5120/W/23/3328461

45 Marina Drive, Welling, Kent DA16 3QY

- 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 A Llukovi against the decision of the Council of the London Borough of Bexley.
 - The application Ref is 23/00536/FUL.
 - The development proposed is to convert a single family dwelling into 2x self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Nobody was at the appeal property to give internal access at the first scheduled site visit. At the second site visit, access to rooms in the upper floors was not possible because the appellant did not have the room keys. This was achieved at the third site visit.
3. The application form states the proposal has started. The internal layout of the appeal property reflects the submitted plans. The ground floor was either part of a still existing house or a self-contained flat (Flat 1). Some first floor and roof level rooms were furnished as double bedrooms, including what is proposed to be the living room for Flat 2. Other rooms had been cleared, with furnishings stored in one half of the proposed kitchen/dining room. Some rooms, including bedrooms with beds in situ, contained fridges. While there is one bathroom, there is no kitchen in Flat 2. Consequently, the proposal is not complete and two self-contained flats do not yet exist.
4. The appellant's appeal statement seeks planning permission for 'the existing development'. However, considering the ambiguities outlined above, which are not clarified by the appellant, I have determined the appeal on what is shown in the as proposed plans. This is consistent with what the application form and appellant otherwise states is intended, including the description of the development. The Council made its decision on this same basis.

Background and Main Issue

5. The appeal property was originally built as a two-storey semi-detached house and subsequently extended. A previous appeal to convert it into three self-contained flats was dismissed¹. In the current appeal, the Council did not object to it being sub-divided into two large flats or to the details for Flat 1. Nor do I, for essentially the same reasons as set out in the officer report.
6. Flat 2 is proposed to be a 4 bedroom, 6 person flat over two storeys at first floor and roof levels, with no external alteration or enlargement of the appeal property. The main issue in this case is whether Flat 2 would provide appropriate living conditions for future occupants, having regard to bedroom gross internal area (GIA), headroom, outlook and natural light.

Reasons

7. Amongst other things, Policy D6 of the London Plan March 2021 (the LP) contains minimum quantitative standards for residential conversions to ensure satisfactory living conditions. This includes total GIA relative to the number of proposed bedrooms (in this case one must be a double or twin) and occupancy in persons; as well as bedroom dimensions, including GIA and headroom. It also refers to qualitative issues, such as window views.
8. According to the appellant, Flat 2 would be 125.4m² GIA. Even if, as the Council suggests, it would be 116m² GIA (after deducting floor area with a headroom of less than 1.5m, as required by LP Policy D6) this would still exceed the minimum 106m² GIA for a 4 bedroom, 6 person flat set out in Table 3.1 of the LP, or 109m² GIA including built-in storage.
9. However, neither first floor bedroom would be 2.75m wide and each would be less than 11.5m² GIA. At roof level the rear bedroom would be at least 2.75m wide but about 10.5m² GIA and the front bedroom more than 2.75m wide but only 8.3m² GIA taking into account the roof slope. Despite regular shaped rooms and that some double beds were in situ, Flat 2 would not provide a double bedroom at least 2.75m wide and at least 11.5m² GIA.
10. None of the floor to ceiling heights in Flat 2 would be at least 2.5m. The first floor ceiling height is, though, part of the original fabric and structure of the appeal property. At about 2.44m it is not significantly lower than 2.5m, nor was it rejected by the Council for Flat 1. There is also no evidence that the 2.5m standard should be applied in Flat 2 on a 75% of GIA on a room by room basis, as the Council has for the roof level front bedroom. However, the 2.2m floor to ceiling height in both roof level bedrooms would be a notable shortfall even against 2.44m, especially in the front bedroom because a significant proportion would have less than 1.5m headroom.
11. Flat 2 would be dual aspect and there is no apparent reason to suggest all habitable rooms must have this characteristic. There is also no evidence that the 1.3m high cill level of the two rooflights in the roof level front bedroom would be significantly higher than a normal conventional window cill. Even if it was, this would restrict views out by younger children towards features or activity of interest, other than the sky. While this would give a sense of containment, other bedrooms would have conventional windows. Despite

¹ APP/D5120/W/23/3315688

their shallow angle, the large rooflights could be closely approached from within the room to give satisfactory outlook for older children or adults, commensurate with use of this room as a bedroom. They would also provide sufficient natural light, an issue the Council raised in its appeal statement.

12. As I saw, a double bed partly inset below the sloping roof slope could be an efficient use of the available space. Nevertheless, a double or twin bedroom anywhere in Flat 2 would be cramped for normal domestic use and activity, including provision of other furniture and circulation space, so not provide a functional layout that was fit for purpose. This would be especially so in the roof level front bedroom because the roof slope significantly compromises headroom and useable floor area. There is no evidence that a planning condition or obligation could overcome these adverse impacts.
13. I therefore find that Flat 2 would not provide appropriate living conditions for future occupants, having regard to bedroom GIA. Additionally, the appellant has not demonstrated that sufficient headroom (at least 2.44m) would exist across at least 75% of the GIA of Flat 2. Consequently, the proposal as a whole does not comply with the relevant standards in LP Policy D6 A, F, 2), 4), 5) and 8) and conflicts with Policies SP5(1)(b) and DP11(2)(c) and (g) of the Bexley Local Plan April 2023. These include that dwelling design should have regard to health and well-being and provide appropriate levels of internal amenity and standard of accommodation.

Other Matters

14. The Council considers that it no longer needs to demonstrate a 5 year housing land supply (5YHLS) in this appeal due to some provisions of the National Planning Policy Framework published in December 2023 (the NPPF). The Council did not fail the 2022 Housing Delivery Test.
15. Both flats would be internally fitted out and finished to a high standard and there would be suitable outside amenity areas. There would be a living room next to a bedroom, and vice versa, in relation to the likely use of habitable rooms in the other half of this pair of semi-detached houses. A condition could ensure satisfactory details of noise attenuation measures were approved by the Council and implemented. Conditions could also secure approval of a fire safety statement and details of sustainable urban drainage and landscaping at the site, as well as suitable provision for cycle parking and storage of refuse and recycling. The absence of harm in these regards are neutral factors in my decision.
16. A condition could ensure that two cars were parked on the site (one per flat), similar to parking at most other dwellings in Marina Drive. This would accord with the Council's maximum parking standard for this location. There are no on-street parking restrictions and albeit a snap-shot, at each site visit several spaces were available. The appeal property is also in an area with moderate accessibility to public transport by walking or cycling to buses and a railway station. Future occupants of each flat would not therefore be reliant on cars or unduly restrict on-street parking. Alleged use of on-street parking for other purposes, including people who do not live in Marina Drive is a separate matter for the Council.

17. The effect of development on private property value is not a material consideration. If planning permission was granted and similar development sought elsewhere in Marina Drive, it would need to be considered on its individual planning merits. Whether the proposal in this appeal was completed according to the as proposed plans (including rooms used as annotated and the appeal property occupied as two self-contained flats, not for example a house in multiple occupation) would be a separate matter for the Council. It also has planning enforcement powers with respect to alleged use of the outbuilding on the site as an independent dwellinghouse.

Planning Balance and Conclusion

18. In principle, the proposal is acceptable under the development plan. A net gain of 1 dwelling and providing 3 and 4 bedroomed flats would support NPPF objectives to significantly boost the supply of new homes, in this case by efficient use of a previously-developed windfall site and increased density of development in an urban area to meet family living needs relatively quickly. It would also provide a Community Infrastructure Levy payment to the Council and a condition could ensure ecology enhancement at the site, both outcomes aligned with aims of the NPPF to provide supporting infrastructure and achieve bio-diversity net gain. These are all important considerations but this small-scale proposal would make a limited contribution in these regards, so these public benefits have modest weight.
19. On the other hand, Flat 2 would result in material harm to the living conditions of future occupants. This would be at odds with the development plan, which is consistent in these respects with other objectives of the NPPF to achieve well-designed places by development that promotes health, well-being and a high standard of amenity for future users. Support in the NPPF for housing delivery and making optimal use of a site does not dispel that development should be appropriate in amount and satisfactory for those who would live in it. Once established the living conditions would be permanent so these considerations have substantial weight.
20. 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.
21. Flat 2, so the proposal overall, does not comply with the most relevant policies of the development plan and conflicts with relevant policies in the NPPF. There are no other material considerations to indicate that the decision should be made other than in accordance with the development plan taken as a whole². Consequently, for the reasons given above the proposal is unacceptable and the appeal does not succeed.

Robin Buchanan

INSPECTOR

² Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended)