



Appeal Decision

Site visit made on 6 August 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2024

Appeal Ref: APP/D5120/W/24/3337329

6A Sidcup High Street, Sidcup, Bexley DA14 6EZ

- 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 Jagat Ramtahal against the decision of the Council of the London Borough of Bexley.
 - The application Ref is 23/00792/FUL.
 - The development proposed is the conversion of existing warehouse to a 2x bedroom 3 persons new dwelling with associated amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the Council's notice of decision, the National Planning Policy Framework (the Framework) was revised on 19 December 2023. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context, and both parties have had the opportunity to make comments on the revised Framework within their statements and final comments.
3. I am aware of the Deputy Prime Minister and Secretary of State for Housing, Communities, and Local Government's Written Ministerial Statement "Building the homes we need" dated 30 July 2024 regarding changes to the planning system, and the consultation "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" also dated 30 July 2024. However, I am content that the issues they both raise are not material to the determination of this appeal based on the evidence before me. As such, there has been no need to seek the views of the parties regarding these proposed changes, and no party would be prejudiced by this.
4. The appellant has submitted a Fire Statement and additional information regarding measures to reduce greenhouse gas emissions and water usage with their appeal. The Council has been provided with a copy of this additional information and they have been able to comment on it through the appeal process. In view of this, and the relatively limited additional information, I am content that there would be no unfairness to any parties by accepting this information. The appeal has been determined on this basis.
5. Within their appeal statement, the appellant referred to making changes to comply with building regulations. However, no such changes have been

proposed as part of this appeal scheme, and the appeal has been determined in accordance with the same plans considered by the Council.

Main Issues

6. Taking into account the submitted documentation from the Council and its notice of decision, the main issues are:

- Whether the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to the outlook and light for the kitchen/dining room and the ground floor bedroom, and refuse storage provision;
- Whether there is satisfactory information provided in respect of measures to reduce greenhouse gas emissions and conserve water from the proposed development; and,
- Fire safety.

Reasons

Future occupiers

7. The appeal site relates to a two-storey detached storage building immediately behind no. 6 Sidcup High Street. It is enclosed on all sides by a combination of other buildings/structures and a parking area, with a small area between it and the rear of No. 6. It is proposed to access the building from the side via Black Horse Road.
8. As its proposed outdoor space is only accessible by going through the proposed dwelling itself, refuse storage has been proposed within the building, inside its proposed kitchen. There would be 3 no. refuse bins near to the proposed dwelling's ground floor entrance door, they would also be positioned near to a proposed vertical cycle store. Whilst a wall has been added to partially separate the bin storage area from the kitchen and dining area, the proposed bins would nonetheless be within the same room as them, and the wall would do very little to screen the bins from the dining area.
9. Storing domestic waste, which could potentially be within the kitchen for up to a week or so, even if all 3 no. bins were to be collected weekly, would be wholly unacceptable, and likely to give rise to malodour for future occupants within their kitchen and dining area, where food would be stored, prepared and eaten, harming their living conditions. The extent of the red line includes part of a track to the appeal site from Black Horse Road, it is unclear why it is not possible to locate the bins within this area, in preference to locating them within the proposed kitchen area.
10. It has been said that many other properties store waste internally, although no precise details of these have been provided, including whether, or when they have been approved planning permission, or the type of use they serve. Furthermore, this proposal must be considered on its individual merits against the development plan.
11. The proposed dwelling would have 2 no. ground floor openings on its side directly facing the rear of No. 6; with a tall wall on the boundary to No. 8 on one side, and a single storey extension attached to the rear of no.4 on its other side. Thereby completely enclosing its proposed rear courtyard, which would

have a very restrictive depth, said to be some 1.2 metres or so opposite the proposed bedroom window. Whilst the proposed ground floor bedroom window would be quite wide, spanning most of the room's width, it would look wholly towards a two-storey projection on the rear of no.6 with enclosures to its other sides, which would severely restrict its outlook and the light it would receive. This would provide a very poor quality of accommodation and offer no meaningful outlook from that bedroom window, and it would create harmful living conditions of future occupiers.

12. The courtyard opposite the proposed kitchen/dining room's double doors and small window would be slightly deeper, nevertheless the outlook would also be similar to that of the bedroom, looking directly towards the rear of no.6, and having enclosing features on both of its sides, which would also likely restrict the light into that room. Although it is noted that this loss of light could be offset by the high-level window on the side of the dining area and the glazed entrance door (mainly behind the partition wall). However, the position of these openings would do little to offset the very enclosed outlook from within the room, which would also create harmful living conditions for future occupiers of the proposed dwelling.
13. The appellant has said that the internal accommodation has been re-configured, including a lounge with a balcony at first floor level to improve the living environment for future occupiers. Be that as it may, this does not off-set the identified harm relating to the poor outlook from ground floor rooms. Nor did I find that painting the courtyard wall a light colour, having wall to wall mirrors in the rooms in question, landscaping the courtyard, or installing a water feature, to be capable of mitigating the harm identified above.
14. I therefore conclude that although there would be adequate light for the proposed kitchen/dining room for future occupiers, the proposal would nonetheless be harmful to the living conditions of future occupiers due to the poor outlook and restricted light for the ground floor bedroom, the poor outlook from the kitchen/dining room and due to the inadequate internal bin storage arrangements. In doing so, I find the proposal would conflict with Policy D6 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP), and Policies DP11 and DP26 of the Bexley Local Plan, adopted April 2023 (BLP) that amongst other things require development to be high quality design, ensure appropriate amenity and outlook for future occupiers, and prevent unacceptable odour, along with providing adequate external storage areas for waste. The proposal would also conflict with paragraph 135 of the Framework insofar as it requires a high standard of amenity for existing and future users.
15. The Council referred to conflict on this main issue with their Design for Living SPD, however I have been provided with insufficient information to enable me to conclude that there would be any conflict with it in this case.

Greenhouse gas emissions and water usage

16. BLP Policy SP14 seeks the delivery of sustainable development through supporting developments that achieve zero-carbon and demonstrate a commitment to drive down greenhouse gas emissions to net zero. BLP Policy DP30 requires development proposals such as this to aim to be net zero carbon and reduce greenhouse gas emissions.

17. Although no information to address these policies was provided during the consideration of the planning application, within their appeal statement, the appellant set out how sustainable features could be incorporated into the proposal, these include; high-performance windows and shading devices to improve insulation; thermal insulation for walls, roofs, and floors; possible on-site renewable energy sources, such as solar panels; energy-efficient appliances and LED lighting; low-flow faucets, toilets, and showerheads; rainwater collection; outdoor spaces with drought-tolerant plants; and a management system for continuous monitoring of energy and water usage. The Council, other than stating that a Sustainability Statement has not been provided, has not raised specific objections to these proposed sustainable design features.
18. Although it is unclear exactly which of the appellant's possible sustainable design features are proposed and noting that solar panels are not shown on the proposed plans, the submitted information shows a willingness to address greenhouse gas emissions and reduce water consumption in the context of the conversion of an existing building. Had I been minded to allow the appeal, suitably worded conditions could have been imposed to agree the exact details of such measures.
19. I therefore conclude that sufficient information has been submitted regarding measures to reduce greenhouse gas emissions and water usage, and subject to the imposition of conditions in the event the appeal was to be allowed, the proposal could comply with the requirements of BLP Policies DP30 and SP14, the requirements of which are set out above.
20. The Council referred to conflict with LP Policies SI 1 and SI 2 on this main issue. Policy SI 1 is mainly focussed on air quality and pollution, and I am not aware that the appeal site is located within an air quality management area, and Policy SI 2 relates to reducing greenhouse emissions on major development proposals. Consequently, these policies were not directly determinative on this main issue.

Fire Safety

21. LP Policy D12 requires all development proposals to achieve the highest standards of fire safety. This includes demonstrating sufficient unobstructed outdoor space for fire appliances; an evacuation assembly point; that buildings are designed with fire safety features including being designed to reduce the risk of fire spread; include a robust evacuation strategy that could be periodically reviewed; allow safe means of escape; and provide an appropriate amount of firefighting equipment.
22. LP Policy D12 is a criteria-based policy, and this information should, therefore, have been provided in support of the planning application to assess the fire safety acceptability of the proposed development.
23. The appellant's Fire Statement briefly states what measures could be included, such as fire-resistant materials; the use of smoke, carbon monoxide, and heat detectors; the provision of fire extinguishers; electrical safety checks; fire-safe doors; and that the main door would be the escape route to an assembly point on Black Horse Road. Whilst some information required by LP Policy D12 is outstanding, there has been a consideration of fire safety at the appeal site and how to mitigate such risks, including a Fire Statement. In view of this and the

development proposed, I am content that the outstanding details can be satisfactorily addressed through a suitably worded planning condition. It is also noteworthy that the Council indicated within its appeal statement that they did not object to the contents of the submitted Fire Statement.

24. I therefore conclude that subject to a suitably worded condition to address fire safety the proposed development would comply with LP Policy D12, as set out above.
25. The Council within its notice of decision referred to LP Policy D6 on this main issue. That policy is focussed on housing quality and standards, and does not expressly cover fire safety, accordingly I did not find it to be directly determinative on this main issue.

Other Matters

26. I acknowledge that the appeal site is said not to be listed or within a conservation area; that it is said there would be no harm to the living conditions of neighbouring occupiers; and that no objections were received during the consideration of the planning application. These are, however, neutral matters that do not weigh in favour or against the proposal.
27. The appellant has said that there are difficulties using the building in question for commercial uses, due to its impact on nearby occupiers and highway safety; that the site is within a well-connected area; it comprises a re-use of an existing building; that measures are said to have been added to make it safe and secure for future occupiers; and that the appeal scheme has been submitted following an earlier refusal with amendments made to address earlier concerns. These matters are noted but they do not either individually or collectively outweigh the harm identified above and the conflict with the development plan.
28. The appellant has also said that the proposal would contribute towards the Council's overall housing need, and that it could be occupied by a family. Whilst it is noted that the proposal would provide an additional dwelling, this single dwelling would make a very limited contribution to Bexley's overall housing supply, which, even taking the matters raised above into account, would not outweigh the identified harm. Furthermore, I note the BLP was adopted last year, and I have not been made aware that the Council does not currently have an adequate supply of housing that would warrant paragraph 11 d ii) of the Framework being invoked. Even had the presumption in favour of sustainable development been engaged, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies of the Framework taken as a whole.
29. I have also had regard to an objection from an interested party received during the appeal process, relating to the effect of the proposal on the living conditions of adjoining occupiers, and the ownership and suitability of the pathway between the appeal site and Black Horse Road. The path to Black Horse Road is within the appellant's red line denoting the application site, ownership would be a separate matter to this land-use planning proposal. I also note that the suitability of the path, and its effect upon the living conditions of neighbouring occupiers were not disputed by the Council. Whilst I can understand the concerns of the interested party, there are no compelling

evidence before me that would lead me to come to a different conclusion to the Council on these matters.

Conclusion

30. The proposed development conflicts with the development plan, and there are no other considerations, including the Framework, that outweigh this conflict. Accordingly, for the reasons outlined above the appeal should be dismissed.

A Hunter

INSPECTOR