

Appeal Decision

Site visit made on 5 September 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 October 2024

Appeal Ref: APP/D5120/W/24/3336255

458 Hurst Road, Bexley DA5 3JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr Walsh against the decision of the Council of the London Borough of Bexley.
 - The application Ref is 23/01149/FUL.
 - The development proposed is single storey 4 bedroom dwellinghouse with a bike shed, bin store, associated parking and amenity space on land to the side and rear of 458 Hurst Road, Bexley, DA5 3JR
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Walsh against the Council of the London Borough of Bexley. This application is the subject of a separate decision.

Procedural Matters

3. An update to the National Planning Policy Framework (the Framework) has been published dated 19 December 2023 but there are no material changes relevant to the substance of the appeal.
4. The officers' report raises concern in relation to daylight/sunlight matters. As this did not specifically form part of the reasons for refusal in the decision notice and I am dismissing the appeal on other grounds, I do not find it necessary for me to consider this matter further.

Main Issues

5. The main issues of the appeal are the effect of the proposed development on:
 - The character and appearance of the site and surrounding area; and
 - The living conditions of existing occupiers of No 456 and 460 Hurst Road (No 456 & 460) with particular regard to outlook, privacy and noise and disturbance.

Reasons

Character and appearance

6. The appeal site relates to land that forms part of the rear garden of a two storey, semi-detached house situated on Hurst Road along a row of other similar properties.
7. The surrounding area is predominantly residential comprised of traditional two storey dwellings with narrow and large rear gardens which provides for a verdant, open, and tranquil character to the rear of the properties. This is an integral part of the character and appearance of the area, contributing positively to the rear garden vistas and its suburban quality. Many of the dwellings have outbuildings at the rear of the gardens which vary in size and design. Such outbuildings however remain subordinate to their host property maintaining the open character of the rear garden areas. Such buildings are also of a markedly different nature and appearance to the building that is the subject of this appeal. The positioning of the sports club building does not significantly alter this as there is still a clear and consistent pattern of development with properties fronting the main road with long and narrow gardens to the rear.
8. I am aware of the dispute regarding the building typology of Hurst Road as set out in the Bexley Local Character Study. Even so, this would not undermine my assessment of the site's context and current overall contribution to the character of the area. This finding is also not diminished by the rear gardenscape itself, or any of its component parts, not being listed or highlighted as having any significance in local policy guidance or character assessments.
9. The proposed development seeks planning permission to erect an arc-shaped bungalow, with a north wing and south wing connected by a glass-walled corridor. It would have varying heights due to the change in ground levels towards the end of the garden. Access would be taken from the side of the host property down a pathway which would include the demolition of the garage associated with the property.
10. The proposed development would occupy approximately two thirds of the depth of the garden of No 458 within a relatively tight and constrained space given the depth of the plot being limited by the presence of the host property to which the garden belongs, and the width limited by the narrow form of the garden. As a result, the proposed development would be very close to its boundaries.
11. Although not visible from the streetscape, the proposed development would clearly be visible from the rear of surrounding properties where the construction of an additional dwelling in such a limited site would stand out as a discordant feature in the area and would harm the character and appearance of the established development pattern of large open rear gardens. As referred to above, the prevailing pattern of development is of dwellings fronting the roads. The proposed dwelling would be located behind these frontages creating unusually short rear gardens which is not consistent with the pattern of development and would be an overdevelopment of the land. Typical plot sizes and spatial requirements would not mean that the

location of development is not of a tight and constrained space taking into account site specific characteristics and would not negate the perception of overdevelopment on this site.

12. I have considered the images provided by the appellant. However, based on my own observations onsite as well as the planning drawings, I am not convinced that the scope of visibility of the scheme from nearby properties would be limited even taking into account the proposed design/roof form and treatment, landscaping at different times of the year and the level difference. This is due to the site-specific context and relationship that exists between neighbouring properties and their garden areas along with the scale and massing of the development.
13. Additionally, the proposed design is of a contemporary appearance which would be at odds/jar with the more simplistic form and features of the host property and character of the area. It would therefore appear overly prominent in comparison to other properties. The proposed external materials palette may not have been challenged by the Council and I acknowledge that the Council has stated that the design in itself is not unattractive. However, this would not mean that the development would not be harmful as it still fails to respond to the local character, appearing as a stark contrast in this specific location. The reasoning behind the overall design is noted including sustainability, accessibility and energy/water efficiency matters although this would not alter my findings.
14. For the above reasons, the proposed development would unacceptably harm the character and appearance of the site and surrounding area. It would therefore be contrary to Policy DP11 of the Bexley Local Plan, 2023 (BLP) and Policy D4 of the London Plan, 2021 (LP) which I find relevant in the particular circumstances of this case given its overall aim of delivering good design. Whilst there is an onus within Policy D4 for the Council to scrutinise the design of development, there is also an onus for the appellant to demonstrate that the proposal meets design requirements. Such policies amongst other matters, ensures the creation of well-designed developments that respond positively and effectively to the locally specific character of the area. For the same reasons, the proposed development would also be contrary to paragraph 135 of the Framework which again is relevant as it seeks to ensure that developments will function well and add to the overall quality of the area as well as the Bexley Residential Design Guidance, 2006 (BRDG).

Living conditions

15. The west curved wall of the proposed dwelling would be situated facing the boundary with No 456, with a fence of 1.8 metres in height indicated along this boundary. The positioning and spread of the proposed dwelling throughout the plot and overall height means that it would be clearly visible above the fence from No 456 covering a significant depth in relation to the garden areas. This, coupled with the close proximity to its boundaries would have a detrimental impact on outlook for occupiers of No 456 particularly when utilising their garden area as it would increase the sense of enclosure for occupiers causing an overbearing impact.
16. In terms of No 460 located to the east, the proposed development would place a new structure of significant depth, along this rear garden boundary,

which again would cause an overbearing impact for the reasons already set out in relation to No 456 which would not be mitigated by a 1.8-meter-high fence or the small gap.

17. I am aware of the Councils' concerns regarding levels of activity alongside existing occupier's rear gardens and the perception of overlooking. However, whilst occupiers would not expect to have a new dwelling constructed within such close proximity within a garden setting, the single storey element and fencing would ensure that existing occupiers would not be unduly harmed by loss of privacy. The proposed development would provide 1 dwelling with the general activity associated with a development of this size not being likely to give rise to an unacceptable impact. This element is therefore of lesser concern to me but would not overcome the other harm I have identified.
18. In coming to these conclusions, I have had due regard to the diagrams/images provided by the appellant and certain design elements of the scheme. This would not however lead me to a different conclusion as the proposed development would still harm the living conditions of existing occupiers which is unacceptable.
19. For the above reasons, I conclude that whilst I have not found harm in relation to matters relating to privacy and noise and disturbance, I have found that the proposed development would unacceptably harm the living conditions of existing occupiers of No 456 & 460 with particular regard to outlook. It would therefore be contrary to Policy DP11 of the BLP and Policy D4 of the LP which together, amongst other matters, ensures that existing properties' amenity is appropriately protected. For the same reasons, the proposed development would be contrary to paragraph 135 of the Framework which ensures that developments create places with a high standard of amenity for existing and future users as well as the BRDG.

Other Matters

20. I appreciate that the development would contribute towards the Councils' housing targets, and I am aware of the location of this site in relation to amenities and transport. The site is not within the Green Belt, a Conservation Area or any area of Outstanding Natural Beauty whilst not being in close proximity to listed buildings. Such matters would not however alter my findings on the above main issues nor be sufficient to outweigh the harm identified. Matters relating to flood risk, areas of landscaping or improvements for biodiversity would also not be sufficient to weigh in favour of the appeal.
21. I am aware of previous pre-application discussions that have taken place and claims made regarding a lack of opportunity to address specific concerns the Council had during the determination period. This would again not alter my findings as I must determine the scheme before me based on its own merits.

Conclusion

22. Although the proposed development would not harm the living conditions of existing occupiers of No 456 & 460 with particular regard to privacy and noise and disturbance, the proposed development would harm the character and appearance of the site and surrounding area and would harm the living

conditions of existing occupiers of No 456 & 460 with particular regard to outlook.

23. It would therefore conflict with the development plan when considered as a whole. There are no material considerations, either individually or in combination, that would outweigh the identified harm and associated plan conflict. I conclude that the appeal should therefore be dismissed.

N Teasdale

INSPECTOR