



Appeal Decision

Site visit made on 15 October 2024

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 05 November 2024

Appeal Ref: APP/D5120/W/24/3344127

55 Perry Street, Dartford, DA1 4RB

- 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 David Onafuwa against the decision of Bexley London Borough Council.
 - The application Ref is 24/00331/FUL.
 - The development proposed is the erection of a detached three storey dwelling with refuse storage and parking following demolition of existing garage.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached three storey dwelling with refuse storage and parking following demolition of existing garage at 55 Perry Street, Dartford, DA1 4RB in accordance with the terms of the application, Ref 24/00331/FUL, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

2. The main issues in this case are: i) the effect of the first floor of the proposed dwelling on the character and appearance of the area and the streetscene in general; ii) the effect of the first floor on surrounding houses and gardens in terms of enclosure, overlooking and loss of privacy.

Reasons

The site and surroundings

3. The appeal site is part of the rear gardens of Nos.55 and 57 Perry Street. These are 2-storey houses set back from Perry Street, providing space for two car parking spaces each at the frontage. Both have large rear gardens; that of No.57 is partly used for a large outbuilding within the rear part of the curtilage. To the rear of the properties is a shared private access track accessed from Holmsdale Grove. This provides access to the rear of Nos.51 to 57 Perry Street as well as the properties on the south-west side of Holmsdale Grove, some of which have large garages or other outbuildings accessed from the track.
4. Along Perry Street to the junction with Holmsdale Grove there is a second pair of semi-detached properties which match the style of 55 and 57, with feature bay windows on ground and first floor, and Tudor board detailing on the gable wall fronting the road. Properties in the neighbouring area, which is almost

entirely residential, are primarily 1930s terraces with 2 storey bay windows and Tudor board detailing or are 1950s/60s houses.

Planning policy

5. Bexley Local Plan was adopted in April 2023. The relevant policies are SP5, DP2 and DP11. Part 1 of Policy SP5, (parts 2 and 3 deal with large scale developments) states: *"The Council will continue to expect high quality standards of design in Bexley. Design should respect the existing character and context but need not be constrained by what already exists; local character evolves over time"*.
6. Policy DP2 specifically deals with residential development on backland sites and gives support to optimising the capacity of the site, and providing well-designed housing with a high standard of amenity that makes a positive contribution to the area, but resists development that would not have adequate access for vehicles or adversely affect other accesses and that would adversely affect neighbours' privacy and amenity.
7. Policy DP11 'Achieving high-quality design' applies to development generally, but in respect of this appeal proposal seeks to avoid development that is overbearing or results in an unneighbourly sense of enclosure, overlooking and loss of privacy.
8. Policy D6 of the London Plan (2021) sets housing quality and is referred to in the second refusal reason. However, there is nothing specific that is not covered by the other policies referred to, as can be seen from the commentary in the officer's report, although its housing space standards are of note

The character and appearance of the area and the streetscene in general.

9. As noted in paragraph 4 above, the surrounding development is long established terraces from the 1930s with some later houses from the 1950s/60s. Policy D2, specifically dealing with backland sites, supports optimising development capacity, whilst policy DP11 expects that design should respect existing character and context, but need not be constrained by it. The principle of the proposal is not in contention.
10. The appeal site fronts onto a relatively narrow track that currently gives access to the rear of housing in Perry Street and Holmsdale Grove, where garages and storage buildings are situated, some large. Immediately adjacent to the appeal site, to its south-west, at the bend in the track, is the very large outbuilding at the rear of No.57 Perry Street. The site is some 22m from Holmsdale Road, and would only be seen as the observer passes by, or enters the track. The impact of the proposal would be further diminished by the recently built chalet bungalow in part of what was the rear garden of No.51 Perry Street. The height of the proposed dwelling would be lower than this new chalet, as would be its general mass, and also lower than the adjoining outbuilding at the rear of No.57 Perry Street.
11. The appeal proposal would not be seen from Perry Street and would be barely seen from Holmsdale Grove. The chalet at the junction of the track with Holmsdale Grove is of a very different character to the surrounding housing, and has no pretence to being other than of staid design. I do not regard the generality of the garages and storage buildings that gain access from the track

as being anything but a poor assortment structures without any design merit. In this context, the proposal does not jar with its surroundings; rather the modern design would lift the area and add at least one element that has been purposefully and creatively designed.

12. The first floor would be clad in standing seam zinc, which would appear subordinate to the ground floor element, and would complement the brickwork and provide interest to the access track. The north-western and north-eastern first floor elevations would be mansards, so reducing the effect of its massing on its surroundings.
13. Thus, in terms of the character and appearance of the area and the streetscene in general, it would have a minimal impact, and the extent to which it would be seen from the public domain, it would exhibit the qualities that are expected of new development, good thoughtful design, relating well to a confined site, that presents a modern approach, whilst remaining discreet from the adjacent public highway. The first floor element would be visually significant, but in its context of poorly related and designed rear garden development within which it would sit, it would be interesting and beneficial to the environment of the track.
14. Turning to the question of whether the proposal would be overdevelopment of the site, the scheme proposes a 3-bed, 5 person unit. It would be expected to have a gross internal area (GIA) of 99m² minimum across three storeys. A two-bedspace double (or twin) bedroom should have a floor area of at least 11.5m², and the one bedspace single bedroom should have a floor area of at least 7.5m². The proposed dwelling would have a GIA of 114.95sqm which would exceed the London Plan space standards requirements for a 3 bed, 5-person three storey dwelling.
15. The shape and room sizes for the proposed unit are also satisfactory and compliant. None of the rooms would have a particularly convoluted shape that would result in a limitation to their specific use. The proposal also meets the minimum ceiling height, and in terms of light, ventilation, and sense of space, would meet the required standard. All habitable rooms within the property could be expected to receive an acceptable level of daylight.
16. The proposed dwelling would have a private amenity space to the rear of approximately 70m²: 9.2m wide and 7.5m deep. This would exceed the policy requirement for a property of this size as set out in Policy D6 of the London Plan, and thus would be an adequate provision for future occupiers of the dwelling. The total site area (including parking spaces) is 212.7m². The proposed building footprint is 59.0m², giving a plot coverage of 27.7%. This is a relatively low plot coverage for backland development, and compares with a plot coverage is 31.2% of the recently built chalet at the rear of No. 51 Perry Street.
17. All these factors lead me to consider that the proposed dwelling would not constitute an overdevelopment of the site. Nor would it result in an inappropriate and discordant form of development that would fail to integrate with or pay due regard to local context. It would not be detrimental to the character and appearance of the area and street scene in general.

The effect of the first floor on surrounding houses and gardens in terms of enclosure, overlooking and loss of privacy

18. There are 2 elements to this issue: the amenity of future occupiers of the proposed dwelling, which appears to be subject of the first sentence of the second refusal reason, and the effect of the proposed first floor of the development on surrounding occupiers, in terms of being overbearing, producing a sense of enclosure and overlooking/loss of privacy to houses and gardens.
19. As to the first of these, the matters dealt with in paragraphs 14 to 16 above demonstrate that the proposed dwelling would provide reasonable amenity to future occupiers in terms of floor space, arrangement of rooms, and light and ventilation. A separation distance of approximately 9m would be provided from the ground floor rear windows and the rear boundary of the site. At first floor the windows would look across its curtilage for about 10m in a south-westerly direction. Thus the outlook at ground and first floor levels would be acceptable. At basement level the bedrooms would look across the light well, and there is no reason that this well, as a small courtyard, could not provide some visual delight.
20. The first floor element of the proposal has a length along the track of less than 4.5m with the façade sloping back (described as a mansard). The facing material of this element would be standing seam zinc. This approach was found acceptable in the council's pre-application comments. I share this view: whilst the appearance of the first floor does not align to the existing design and materials of the surrounding development, policy DP11 makes clear that new development need not be constrained by what already exists, and that local character evolves over time. Local opinion may not share this approach, but in any event the scale of the proposed first floor is such that it would not be overbearing or produce a sense of enclosure.
21. The ground floor and basement windows of the proposed development would have no effect on the privacy of surrounding houses. The first floor would have windows only serving a bedroom and these would look south-west, towards the bend in the track where it turns to follow the rear boundaries of the houses in Holmsdale Grove. In terms of loss of privacy, these windows would have a view over the rear part of the gardens of Nos.106 and 108, but this would be less than the normal outlook from first floor windows of adjoining houses. The same considerations apply to the oblique view to the garden of No.57 Perry Street.
22. The refusal reasons do not refer to overshadowing, although it is mentioned in the officer's report in respect of No.108 Holmsdale Grove and No.53 Perry Street. In response to this, the appellant's appeal statement deals with this by producing a detailed shadow analysis following BRE guidance. This examined shadowing at 21 March, 21 June, 21 September and 21 December. On each of these dates, shadows at 10:00 and 14:00 are plotted. BRE recommends that the March date should be used, but all dates show satisfactory results with minor additional shadowing over that already caused by existing buildings.
23. The council's response is that the analysis does not address its concerns, that the proposal materially affects surrounding properties, and that BRE's guidance supports the council's position. The basis for the council's stance is not clear to me, but the only graphical evidence is that provided by the appellant and I

have no reason to doubt its accuracy. Therefore I prefer the appellant's conclusions.

Conclusions

24. I have taken account of all other matters raised, including the nature of the access track and the provision for car parking. There is no reason to think that the proposed development would result in additional safety issues on the public highway, and I can see no reason why this private track, that serves a number of other properties, should not be able to serve the 2 car parking spaces of the additional dwelling.
25. For the reasons that I have set out in paragraphs 9 to 23 above, I will allow the appeal.

Conditions

26. The statutory condition that provides a time limit on the start of development must be imposed. In addition, the council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the text.
27. I consider that the conditions should be imposed for the following reasons: condition 2 is required for certainty and avoidance of doubt as to the development permitted; conditions 3 and 4 are in the interest of sustainable drainage and biodiversity; condition 5 is to minimise the effects of the development on the environment; condition 6 is in the interests of health and the environment; condition 7 is to encourage sustainable modes of transport; condition 8 is to ensure that the development takes place in an environmentally sustainable manner and provides the maximum provision towards protection of habitats; condition 9 is in the interests of highway safety; condition 10 is to allow control of future development on this restricted site; condition 11 is to ensure the satisfactory external appearance of the development; condition 12 is to mitigate climate change; condition 13 is in the interests of highway safety; and condition 14 is to ensure that the development provides, or can be adapted to provide, satisfactory accommodation for people with a wide range of needs.

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the following plans and documents unless previously agreed in writing by the Local Planning Authority: Site Plan, 01002 Rev 1, 01003 Rev 1, 03001 Rev 1, 04001 Rev1, 04002 Rev1, 04003 Rev1, 04004 Rev1, 05001 Rev 1, 05002 Rev 1, Design and Access Statement, Fire Statement.
- 3) A. No development shall take place other than site clearance and excavation works until further details of the design, specification, installation, and maintenance of the extensive biodiverse green roof shall have been submitted to and approved in writing by the Local Planning Authority. The green roof(s) shall be in accordance with the Green Roof Organisation Green Roof Code of best practice, and shall be provided in accordance with the approved details prior to the first use of the building upon which it will be situated, and shall be maintained as such thereafter.
B. Within 24 months of practical completion of the development, evidence of installation of the green roof(s) in accordance with the approved details shall be submitted to and approved in writing by the Local Planning Authority. This shall include photos of the biodiverse green roof and results of initial habitat and species monitoring surveys.
- 4) No development other than site clearance and investigative works shall take place until a scheme for the on-site storage and regulated discharge of surface water run-off has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
- 5) Prior to the commencement of development other than site clearance and investigative works, a Construction Management and Logistics Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of:
 - construction methods and techniques;
 - management of construction and associated vehicle movements and parking, including deliveries of construction materials. means of minimising noise and vibration (including any piling), and compliance with BS 5228;
 - means of minimising dust and similar emissions, in accordance with Air Quality: Best Practice Guidance - The Control of Dust and Emissions During Construction and Demolition Supplementary Planning Guidance (published by the Greater London Authority, July 2014);
 - construction site lighting;
 - the location of notice boards on the site to include details of the site manager, including contact details (phone, email, postal address) and 'out of hours' contact details.

The development hereby permitted shall only be carried out in accordance with the approved Construction Management and Logistics Plan.

- 6) No development above ground level shall take place until details of arrangements for storage of refuse and recycling (including means of enclosure for the area concerned where necessary) shall have been submitted to, and approved in writing by the Local Planning Authority and the approved arrangements shall be completed before any part of the development is first occupied, and permanently maintained thereafter.
- 7) No development above ground level shall take place until details of arrangements for cycle storage (including means of enclosure for the area concerned where necessary) shall have been submitted to, and approved in writing by the Local Planning Authority and the approved arrangements shall be completed before any part of the development is first occupied, and permanently maintained thereafter.
- 8) Prior to any occupation of the development, a scheme of soft landscaping shall be carried out in accordance with the page 40 of the Design and Access Statement (dated January 2024). The landscaping shall continue to be implemented for the lifetime of the development.
- 9) The use of the land for vehicle parking shall not be commenced until the areas have been laid out, surfaced, and drained in accordance with details first submitted to and approved in writing by the Local Planning Authority. This parking area shall be provided prior to any occupation of the development and shall be permanently maintained and available for such use thereafter.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order amending, revoking and re-enacting this Order) no development permitted by Classes A, B, C, D, E, or F of Part 1 of Schedule 2 of the aforementioned Order (as amended), shall be erected or made within the curtilage of the dwelling hereby permitted without the prior written approval of the Local Planning Authority.
- 11) The materials to be used for the external surfaces of the extension hereby permitted shall be in accordance with page 34 of the Design and Access Statement, dated January 2024.
- 12) The sustainable design measures as set out on page 42 of the Design and Access Statement (dated January 2024) submitted with the planning application shall be implemented before any part of the development is first occupied and shall be permanently maintained thereafter.
- 13) Prior to the first use of the accesses to the proposed car parking spaces those parts of 2.4m x 2.4m pedestrian visibility splays which can be accommodated within the site shall be provided in both directions and shall be maintained free of all obstacles thereafter.
- 14) The dwelling shall comply with Building Regulations Optional Requirement Approved Document M4 (2) Category 2: Accessible and adaptable dwellings (2015 edition). Evidence of compliance shall be notified to the building control body appointed for the development in the appropriated

Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

End of Schedule