



Appeal Decision

Site visit made on 03 December 2024

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/D5120/W/24/3346127

Kilworth House, 17 Westergate Road, Bexley, London SE2 0DR

- 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 Chris Towill against the decision of the Council of the London Borough of Bexley.
 - The application Ref is 24/00452/FUL.
 - The development proposed is construction of a two-storey side extension with loft conversion to the existing residential building to separate the proposed 2 bed residential unit, to three self-contained 1- and 2-bedroom flats. Following the grant of planning permission for the conversion & extension of the existing dwelling to create 5 self-contained apartments, as well as a grant of planning permission for a two storey side extension, under planning references: 21/00823/FUL and 23/02227/FUL respectively.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issues

2. Within the appellant's appeal submission there is a suggestion of a costs claim. However, this is not substantiated. Without detailed reasons, I don't consider that a costs application has been made. I have proceeded on that basis.
3. A Sunlight Assessment dated 23 May 2024 has been submitted with the appeal. The Council has been given the opportunity to comment on this. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to this in my decision.
4. The Council has confirmed that it does not wish to defend the first reason for refusal. In light of this, the main issues are:
 - whether the proposal would provide satisfactory living conditions for future occupiers with particular regard to the quality of the internal space; and
 - the effect of the proposal on the living conditions of the occupiers of neighbouring properties.

Reasons

Living conditions- future occupiers

5. The appeal proposal relates to a 2-storey extension and loft conversion to Kilworth House, a large, detached dwelling which accommodates self-contained flats. The extension would provide 3 self-contained flats. The Council's third reason for refusal alleges that, by virtue of the inadequate floor to ceiling height to the second floor flat, there would be a conflict with the Nationally

Described Space Standards (NDSS). The NDSS sets out that dwellings should have a minimum floor to ceiling height of 2.3m for at least 75% of the Gross Internal Area (GIA).

6. Whilst not referenced by the Council in the reason for refusal, my attention has also been drawn to Policy D6 of the London Plan (2021) (LP). It is mandatory for me to take account of the most relevant and up to date information in reaching a decision. LP Policy D6 seeks to ensure that housing developments are of a high quality of design and provide adequately-sized rooms. As a part of this, LP Policy D6 sets out certain private internal and external space standards which developments are required to meet, including a floor to ceiling height. The minimum floor to ceiling height set out within LP Policy D6 is 2.5m for at least 75% of the GIA of each dwelling.
7. Whilst the appellant indicates that a height of 2.3 metres would be reached at the highest part of the second floor flat, this would cover only part of the dwelling and would fall far short of 75% of the GIA of the flat, and part of the accommodation would be provided within the eaves where the head height would be further reduced. This would be a notable shortfall against the space standards set down in both the NDSS and LP Policy D6.
8. In failing to meet this minimum space standard, the second floor flat would not be a home of high quality, and appropriate living conditions would not be provided for its occupiers. Thus, the proposal would conflict with the NDSS and those aims of Policy D6 of the LP set out above.

Living conditions- neighbouring residents

9. The appellant's Sunlight Assessment indicates that whilst the proposal would lead to a slight loss of daylight to rooms in the rear elevations of Flats 1 and 4, 17 Westergate Road, these rooms would continue to receive adequate levels of daylight. Additionally, given the limited depth of the extension, it would not appear as a dominant feature when viewed from the rear-facing windows to these properties.
10. The proposed extension would contain windows within the side elevation at ground and first floors. These windows would be located close to the boundary with 29 Westergate Road. The ground floor window would not result in overlooking given its height and siting close to boundary treatment and no overlooking would occur from the second-floor dormer window which does not contain glazing to the side elevation.
11. However, the proposed side-facing first floor windows, which would serve a kitchen and bedroom, would be sited close to the site boundary and would be approximately 9 metres from the side elevation of 29 Westergate Road. At my site visit I established that the first floor window in the side elevation of 29 Westergate Road serves a bedroom. Though it is stated that the size of the first floor windows have been reduced and the cill height increased where possible, these windows would nonetheless permit clear views of this room and the side garden to 29 Westergate Road. Planting within the appeal site and within the garden to 29 Westergate Road would fail to adequately screen these views. Consequently, the privacy of the occupants of this property would be compromised through direct overlooking. Whilst a degree of overlooking can be expected in urban areas, including from existing windows, such a degree of overlooking would go beyond existing and reasonable levels.

12. At my site visit I observed that net curtains were in place in the first floor side-facing window to 29 Westergate Road. However, the retention of these net curtains cannot be relied on to safeguard against overlooking arising from the proposed development in perpetuity. Indeed, circumstances may change and future occupiers of 29 Westergate Road may choose not to have net curtains. Therefore, the screening currently offered by these curtains would fail to address the harmful overlooking arising from the appeal proposal for the lifetime of the development.
13. My attention has been drawn to a planning application for a side extension to the appeal property¹ which showed an extension 300mm closer to 29 Westergate Road. There is no dispute that this permission could be implemented although I have limited information about whether there would be an intention implement that permission if this appeal were dismissed. However, there would seem a greater than just theoretical possibility that this alternative would take place. Nonetheless, that proposal did not include first floor windows in the side elevations. Therefore, if implemented this scheme would be less harmful to the living conditions of the occupiers of 29 Westergate Road. I therefore give it limited weight in this decision.
14. For the foregoing reasons I find that, whilst the proposal would not result in harm to the living conditions of the occupants of Flats 1 and 4, 17 Westergate Road, it would significantly harm the living conditions of the occupants of 29 Westergate Road through loss of privacy. Therefore, the proposal conflicts with those aims of Policy DP11 of the Bexley Local Plan (2023) which sets out that development must ensure existing properties' amenity is appropriately protected. I also find conflict with the Design and Development Control Guidelines Supplementary Planning Document (2004) which has similar aims.

Other Matters

15. The appellant has expressed a willingness to amend the proposed plans to increase the internal ceiling height to the second floor flat and to amend the window arrangement to address privacy concerns. However, no such detail is before me to give substantial credence to.
16. The proposal would deliver 3 market dwellings on a site in a location which is accessible to local facilities and services. The dwellings would contribute to boosting the supply of new housing. However, these benefits would be limited given the scale of the development.

Conclusion

17. For the reasons given above I conclude that the appeal should be dismissed.

N Robinson

INSPECTOR

¹ 23/02227/FUL