



Appeal Decision

Site visit made on 15 January 2025

by **A Hunter LLB (Hons) PG Dip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 January 2025

Appeal Ref: APP/D5120/W/24/3349653

38 Old Farm Avenue, Sidcup, Bexley DA15 8AF

- 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 M Catton against the decision of the Council of the London Borough of Bexley.
 - The application Ref is 24/01614/FUL.
 - The development proposed is a new self-build 2 bedroom bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development and site address in the banner heading above have been taken from the application form as they accurately describe the proposed development and the appeal site, and I have not been made aware of any agreement for them to be changed.
3. Since the Council's notice of decision, the National Planning Policy Framework (the Framework) has been revised (December 2024). The main parties have had the opportunity to comment on these changes in regard to the appeal proposal.

Main Issues

4. The main issues are the effect of the proposed development on:
 - The character and appearance of the area, with particular regard to its siting, scale, and design;
 - Highway safety, with particular regard to pedestrian visibility; and
 - The living conditions of existing occupiers, with particular regard to the effect on outlook and light for the occupiers of no's 38 and 40 Old Farm Avenue.

Reasons

Character and appearance

5. The appeal site has a frontage onto Old Farm Road, it has an irregular shape, partly reflective of a bend in the road and its part diagonal boundary to no.40 Old Farm Avenue. It is part of the rear garden of no.38 (a semi-detached property), although I saw on my site inspection it is fenced off separately. Whilst the most prevalent housing in the immediate area are two storey semi-detached properties,

that have space to their front, rear and sides, there are other housing types, including some detached and purpose-built flats. The closest property, no.16 Old Farm Road, to one side of the appeal site is a one and a half storey gable fronting property. The properties other than the semi-detached properties, are generally lower in height, and the majority of the housing in the immediate area has an uncomplicated design form, with most properties having a relatively flat frontage, albeit some have porches, and they have a reasonable setback from the pavement edge. In addition, where the detached properties nearby are close to others, they usually have space to their rear or sides.

6. The proposed dwelling has been designed to follow the appeal site's boundaries to its adjoining properties, including the part diagonal boundary with no.40. This creates an overly contrived and uncharacteristic design, layout and form, with three different roof ridge lines. Moreover, its front projecting gable is wider than its main gable that runs from either side of the plot, albeit in two different directions. The design of the proposal appears to have been heavily influenced by the appeal site's constraints and boundary positions, as such its siting in the plot, its diagonal element and dominant gable, which would be very near to the pavement edge, would be wholly out of character with the properties that have a much simpler form in the area.
7. The proposed development would be in very close proximity to its rear boundaries and both of its side boundaries, as a result its outdoor space would be in front of the dwelling itself, between it and the front boundary fence. Whilst acknowledging the requirement to make an effective use of land, in this case the amount of building in comparison to the size of the plot, uncharacteristically limits the space around the proposed dwelling. As a result, the proposed dwelling would appear cramped and incongruous and harm the character and appearance of the area.
8. It is noted that the height of the proposed dwelling would be lower than no's 38 and 40 and be an acceptable transition between them and no.16, and the space between the properties is already mostly filled by planting. Nevertheless, its projecting gable near to its front boundary, due to the alignment of the road and notwithstanding the planting, would make it conspicuous on approaches to the appeal site from both directions, further exacerbating the identified harm to the character and appearance of the area.
9. Whilst the proposed external materials would assimilate well into the surrounding built context, this would not mitigate the harm identified above.
10. The appellant has drawn my attention to a dwelling being constructed to the rear of 101 Old Farm Avenue, which is said to be a single storey property and much different to the other housing around it, along with some limited information relating to properties along Hollis Road, that are said to have been constructed in the rear gardens of properties that face on to neighbouring roads. I have carefully considered these, particularly the limited depth of the rear gardens of the properties on Hollis Road. However, those new properties have space to at least one of their sides, and the plots appear to be larger and a much more regular in shape compared to the appeal site. The new property at 101 Old Farm Avenue, also occupies a much larger plot, and although it is narrow, it does not have a street frontage presence so its impact on the surrounding area is much different. These examples are not directly comparable to the appeal scheme before me, and they have not led me to conclude differently.

11. The appellant has also said that the National Planning Design Guide, dated 2021 (NDG) refers to well-designed places not always needing to copy their surroundings in every way. Whilst that may be so in some cases to enhance particular areas, the NDG has to be read as a whole and its pursuit of well-designed places, requires careful consideration of many aspects of an area, including its context, identity and built form. Moreover, the proposed development has been found to be harmful for the reasons outlined above, and its different design approach does not enhance the character and appearance of the area in this case.
12. I therefore conclude that the design and scale of the proposed development would be harmful to the character and appearance of the area, and conflict with the relevant part of Policy D3 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP) and Policies SP5 and DP11 of the Bexley Local Plan, adopted April 2023 (BLP) that require high quality design that enhances local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, scale, and compliment the surrounding area.

Highway safety

13. The appeal site has an existing vehicular access adjoining its boundary with no.16, across the pavement and verge onto Old Farm Road. The access has tall close boarded gates said to be 1.8 metres high at the back edge of the pavement. I saw on my site inspection that the garage shown on the existing plans has been demolished, and that the gates were padlocked on the outside. The presence of vegetation behind them did not indicate to me that the access was in constant or regular use for parking a vehicle at the appeal site, indeed there was no vehicle parked there at the time of my site inspection. The proposed drawings show the close boarded fences and gates along the appeal site's frontage to be retained at some 1.8 metres high.
14. The Council say a pedestrian visibility splay is required of 2.4 metres by 2.4 metres, which should not have features above 0.6 metres in height except small structures such as a lamppost. The Council has not provided a copy of any policy document that is said to require this exact pedestrian splay. However, and notwithstanding the arguments about the access being existing, in the interests of pedestrian safety such a splay would not be unreasonable, to protect the safety of pedestrians and users of the pavement in the case of the proposed development.
15. The appellant has not provided a plan to show how the pedestrian visibility splay can be achieved. I saw on my site inspection that there is a tall blockwork wall along the boundary of the appeal site with no.16 with a slightly taller concrete post at the end of the wall abutting the pavement. Adjoining that post is a further concrete post of a similar height with a small area of close boarded timber fencing up to the gates (also some 1.8 metres high). I also saw that no. 16 has a tall hedge on its front side adjoining the aforementioned fence post, at a similar height to the fences and gates along the access and frontage of the appeal site.
16. In view of the height of the existing fences, walls, hedging and posts, it is unlikely that the required pedestrian visibility splay could be provided for users of the access for the proposed development. As a result, the proposal would unacceptably restrict views of pedestrians walking passed the access, which could

include vulnerable persons and those in wheelchairs or with a pushchair. Moreover, without an accurate plan, I cannot be certain that any of the structures and hedging on the side nearest to no. 16, would not impede the pedestrian visibility splay, nor is it clear that they are within the ownership of the appellant. As they may be under the ownership or control of a third party it would not be reasonable to impose a condition to secure the required visibility splay in this case, as it would not be possible to enforce the condition if it related to third party land.

17. At present and despite it being fenced off separately, the access in question serves no.38, which is also served by an existing crossover to its front side to a parking space at the junction with Old Farm Avenue and Old Farm Road. In view of this, and with the other access being much closer and convenient for access to the property itself, occupiers of no.38 would most likely use the rear access much less and not as intensively as if it were a sole access, as proposed. The proposed development seeks to use the rear access wholly for the proposed dwelling, as such it is more than likely that it would be used much more intensively than at present, which could have a greater effect on highway safety. I therefore attach limited weight to the appellant's argument regarding the access already being in existence.
18. The appellant referred to the Council previously considered the same access and parking arrangements as currently proposed were acceptable subject to a condition on an earlier application for a dwelling to the side of no.38, that was refused for other reasons. That proposal was much different to this appeal scheme, and whilst the Council's position in this respect may have changed, this does not alter my findings above.
19. I therefore conclude that without satisfactory pedestrian visibility splays the use of the vehicular access for the proposed development would be harmful to highway safety, and conflict with BLP Policies SP10 and DP24 that amongst other things require development to not have a significant negative effect on the safety of any highway users, including vulnerable users of the transport network such as pedestrians and cyclists, promote the safety of the highway network and not increase road danger. In addition, the dismissal of this appeal on this main issue would also be consistent with paragraph 116 of the Framework, that states development should be refused on highways grounds if there would be an unacceptable impact on highway safety.

Living conditions

20. The proposed new dwelling would be single storey, and although it would be in very close proximity to the rear boundary of no.38 and the side boundary of no.40, its eaves height would be low, said to be 2.3 metres, and its roof design has the roofs all pitching away from no's 38 and 40's boundaries. It is also noted that the Council does not object to the retained size of the rear garden of no.38, to which I do not disagree, and that a line of planting is proposed along no.38's rear boundary, which would also help limit views of the proposed development from within the property and garden of no.38.
21. In addition, the limited height of the proposed building would be similar to the height of some domestic garages. Furthermore, its distance from the rear elevations of both no's 38 and 40 (said to be some 7.5 metres from the rear of no.38 and slightly greater in relation to no.40) would ensure adequate separation

and ensure that the outlook from within those properties would not be harmful or overly enclosing for its occupiers or that there would be an unacceptable loss of day light. In addition, the outlook and day light from within the gardens of no's 38 and 40 would also not be materially affected, particularly given the height of the existing landscaping, and the orientation of the respective properties in relation to the appeal site. For the same reasons, there would also be no unacceptable overshadowing for the occupiers of no's 38 and 40.

22. In terms of the effect on no. 16, given the existing boundary treatment and planting, I am content that the proposed development would not have a greater effect than the current situation. It is noteworthy that the Council also found similarly.
23. In all other respects including privacy, I see no reason to disagree with the Council, that the proposed development would have an acceptable effect on the living conditions of neighbouring occupiers.
24. I therefore conclude that the proposed development would have an acceptable effect upon the living conditions of neighbouring occupiers and comply with the requirements of BLP Policies SP5 and DP11 that amongst other things require high quality development which does not unacceptably effect residents, ensures appropriate levels of outlook, natural daylight and properly considers the relationship between buildings and spaces.

Other Matters

25. The Council's report refers to the proposal not providing future occupiers with satisfactory living conditions in respect of the outlook from within the property and the proximity to its boundaries. However, this was not included as a reason for refusal on its notice of decision, or within its statement. Having had careful regard to this, I am content that future occupiers of the proposal would have a satisfactory outlook, and conditions could be imposed in the event I had been minded to allow the appeal regarding the existing and proposed landscaping nearest to the windows on the front of the proposed development to adequately protect the living conditions for future occupiers.
26. The appellant has stated that the appeal site is not part of, or near to designated heritage assets; that it is not part of the Green Belt or within a National Landscape; that the proposed development would meet minimum internal and external space requirements; that it would not harm the living conditions of existing and future occupiers; that it would provide satisfactory off-street vehicle and cycle parking provision; that it has sought to address fire safety risks; it has additional planting; that adequate refuse and recycling facilities would be provided; and it would not be at an unacceptable risk of flooding. These points are noted, however, these are neutral factors, and most are likely to be requirements for any well-designed development, as such they do not weigh in favour or against the proposal.
27. It is acknowledged that the appellant has said that the proposal would contribute towards significantly boosting housing supply, make an efficient use of land through infill development on a windfall site, within a well-connected area. As well as including measures, such as an air source heat pump to reduce carbon emissions. These matters do weigh in favour of the proposal.

28. The planning history of the appeal site, including the approved¹ and refused² applications have been considered insofar as they are relevant to the matters before me. It is also noted that the appellant has engaged with the Council through a pre-application enquiry and sought to make changes in response to the comments made. Nevertheless, the appeal scheme has been determined on its planning merits.

Planning Balance and Conclusion

29. Although the proposed development would not be harmful to the living conditions of existing occupiers, it would be harmful to pedestrian safety and the character and appearance of the area. As such the proposal would not comply with the development plan, I attach significant weight to this conflict.
30. It is recognised that the proposal would contribute towards Governments objective of significantly boosting housing supply and contribute towards economic development through its construction works, and that its future occupiers could contribute to the local economy. The proposal would also facilitate the development of a small site in a well-connected area and make an effective use of land. In addition, sustainable technologies could be used to reduce carbon emissions. However, these benefits given the scale of the proposal being for one dwelling are limited. Nevertheless, they do to a limited extent weigh in favour of the proposal.
31. To conclude, the proposal would conflict with the requirements of the development plan when taken as a whole, and there are no other considerations, including the Framework and those raised by the appellant, that outweigh this conflict. Accordingly, the proposed development is not sustainable development and for the reasons outlined above the appeal should be dismissed.

A Hunter

INSPECTOR

¹ Ref. 23/01244/FUL

² Ref. 23/02251/FUL