
Appeal Decision

Site visit made on 8 September 2016

by George Arrowsmith BA, MCD, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 September 2016

Appeal Ref: APP/W1905/D/16/3154501

13 The Chase, Goffs Oak, Waltham Cross, EN7 5PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Brickmort Investments against the decision of Broxbourne Borough Council.
 - The application Ref 07/16/0004/HF, dated 23 December 2015, was refused by notice dated 9 May 2016.
 - The development proposed is the conversion and extension of existing garage to form an annex accommodation for live in carer.
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Preliminary Matters

1. At the time of my site visit the property had been converted to 2 dwellings identified on their doors as Nos 13 and 15. The subdivision was authorised by a planning permission ref: 07/15/0196/F for (following the wording in the appellant's appeal statement) "*a single storey side extension to No 13 and its conversion into 2 X 1 bedroom dwellings*". The appellant tells me that during the course of carrying out the development the single storey side extension was modified and a subsequent application to retain it was submitted. This application was unconditionally approved under ref 7/15/1025/HF.
 2. The garage and the extension now proposed are within the curtilage of what is now No 15, which sits at one end of a short terrace. The appellant's representations refer to the two dwellings formed from the original No 13 as Nos 13A and 13B with No 13B being identical with No 15.
 3. On 8 November 2015 the Council granted permission for a "*Single storey rear extension to garage and conversion of garage to form annex accommodation*" at 13 The Chase (Ref: 07/15/0920/HF). It is clear from the representations that the garage is the one which is now part of No 15's curtilage. The appellant tells me that during the consideration of this earlier application the case officer requested that the extension to the garage be omitted from the scheme, which it was. However, as recorded above, the description of the development on the decision notice included the words 'Single storey rear extension to garage'. Condition 4 to the permission requires the development to be carried out "*in accordance with the proposals contained in the application and any plan or drawing submitted therewith*". The decision notice did not specify these plans or drawings.
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4. On the basis of the matters referred to in the previous paragraph the appellant says *"It is possible therefore, in the light of the formal decision notice, to interpret the permission granted under reference 07/15/0920/HF as being one that supports the originally submitted plans that included the extension to the garage"*. The interpretation of 07/15/0920/HF is not a matter that is formally before me in this appeal but it is relevant to any consideration of a fall-back position. Even so, I consider that it would be unsafe for me to reach any view on this matter when I do not have the Council's response to the appellant's proposition. I have therefore determined the appeal on the assumption that there is no extant permission to extend the garage. There are of course separate procedures which would enable the appellant to pursue the matter independently of any decision I might reach in this appeal.

Decision

5. The appeal is dismissed.

Main Issue

6. The main issue is whether the prospective residents of the recently formed dwelling at No 15 The Chase would have an unacceptably low amount of private outdoor amenity space if the garage is extended as proposed.

Reasons

7. Guidance on the required garden area for dwellings of this type is given by the Council's Supplementary Planning Guidance (SPG) originally adopted in 2004 but updated in 2013. The updated guidance was subject to a 6 week period of public consultation before being adopted. This guidance now says that the minimum garden size for 1 and 2 bedroom houses is 50 sq m. It is expected that the garden will be out of the view of the general public in the street. It will normally be to the rear of the property and in a form that provides a good level of light and privacy for occupants. On this basis I would expect the calculation of the garden space available to the appeal property to exclude the hard surfaced parking area to the front of the property.
8. The officer's report says that the proposed garage extension would leave a garden area of around 37.5 sq m. It does not say how this figure is calculated, or whether it is the total garden area available to the 2 houses formed from No 13 or just the garden area that would be available to No 15. Nevertheless, from my examination of the submitted plans, it appears clear that it is the garden area that would remain for No 15 and that, following the guidance in the updated SPG, it excludes the hard surfaced parking area at the front of that house. The 37.5 sq m figure is not contested by the appellant.
9. In my view a shortfall of around 25% from the SPG guideline is a significant consideration. The appellant argues that the space remaining would satisfy the requirements of an elderly person requiring full time care. In this regard I consider that such a person might have a greater need for an easily accessible garden than one who is more able to get out and about. Moreover, since the former garage would be occupied by a live-in carer, the outdoor space will effectively be shared by two separate, albeit one-person, households. It seems likely that there will be times when one or other of these households would appreciate the opportunity to relax outdoors in privacy. I conclude that the

way the property is intended to be occupied does not justify a reduction in the guideline requirement.

10. I have also noted that the garden is divided into three distinct parts, the largest of which would receive minimal direct sunlight by virtue of being to the north of the house itself. In addition the two smaller parts would be wedged into narrow areas between walls and a 2m high fence. The deficiencies in layout strengthen the argument for not reducing the space beyond that advocated in the guideline. I therefore conclude that the residents of the property would have an unacceptably low amount of private outdoor amenity space contrary to the objectives of saved policy H8 in the Broxbourne Local Plan 2005 and that the appeal should be dismissed.
11. I am aware that the creation of a carer's annex would have social benefits. This appears to have been reflected in the 2007 permission to form a residential annex under ref 7/0432/07/F/WOL. Nevertheless, the permissions subsequently granted and then implemented for the extension and conversion of the former No 13 to form 2 dwellings have created a situation where No15's garden is so small that the previously acceptable extension of the garage to form an annex no longer complies with the Council's space standards. This is an example of a situation where the achievement of one objective – in this case the creation of two houses from a single house – prejudices the achievement of another objective that would otherwise have been both beneficial and acceptable.
12. A complicating factor in this appeal is that the red line on the 1:500 site plan is in a different position from that on the inset plan shown on drawing No 11799-S-001. Had I not found the proposal unacceptable for other reasons it would have been necessary to have sought clarification of this discrepancy.

George Arrowsmith

INSPECTOR