



Appeal Decision

Site visit made on 21 January 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 February 2020

Appeal Ref: APP/W1905/W/19/3237841 95 Turners Hill, Cheshunt EN8 9BD

- 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 Mr B Musk against the decision of Broxbourne Borough Council.
 - The application Ref 07/19/0626/F, dated 11 July 2019, was refused by notice dated 2 September 2019.
 - The development proposed is erection of first floor rear extension and ground floor internal alterations to create a one bedroom flat at first floor level.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of first floor rear extension and ground floor internal alterations to create a one bedroom flat at first floor level at 95 Turners Hill, Cheshunt EN8 9BD, in accordance with the terms of the application, 07/19/0626/F, dated 11 July 2019, subject to the conditions set out at the end of this decision.

Procedural Matters

2. Notwithstanding a reference made in the Council's Officer Report to the numbering of units in this part of Turners Hill, I am satisfied the site address given on both the application form and the Council's Decision Notice suitably and accurately reflects the location of the appeal site.
3. As noted by the Council and acknowledged by the appellant, the various elevations as illustrated on the submitted plans are incorrectly labelled. The north elevation is in fact the south elevation and the east elevation is in fact the west elevation and vice versa. However, the submitted plans, which detail neighbouring properties upon elevations and contain detailed floor layouts, remain straightforward to interpret despite the incorrect labelling. I am thus satisfied that no party with an interest in this appeal is prejudiced by me proceeding to determine the appeal based on this corrected understanding.
4. It is also the case that the existing first floor plan as submitted at planning application stage is not fully accurate. This illustrates that a window has been removed from the northern end of the west-facing elevation of the existing residential flat at the site (the on-site flat). This is not the case. In the interests of clarity, an accurate existing first floor plan¹ has been submitted by the appellant at appeal stage that depicts the existing window and that, as I understand it, correctly illustrates the current internal layout. I am content that no party with an interest in this appeal is prejudiced by me, for

¹ Ref 13354-S001

information purposes, giving due consideration to this latest plan. Indeed, the Council has had the opportunity to comment upon it and no changes to the intended works that are proposed have been made.

5. I understand that the emerging Broxbourne Local Plan 2018-2033 (the EBLP) has reached examination stage. However, as acknowledged by the Council, the EBLP is at a stage that currently attracts limited weight. This is because the content of its latest policies may yet change prior to its formal adoption. I shall consider the appeal on this basis.

Main Issue

6. The main issue is the effect upon the living conditions of existing residential occupiers within and adjacent to the appeal site, having particular regard to outlook, light and privacy.

Reasons

7. The appeal site is located within a District Centre and contains a ground floor retail unit with the on-site flat above. To the rear of the retail unit is a separate single-storey, flat-roofed building that is used for commercial purposes and, like the main building on-site, covers the site's full width. To the south, the site is bound by a large three-storey property that contains flats to its upper floors and, to the north, the site is adjoined by a public house with a first floor flat (the neighbouring flat) above. To the west there are private and public car parking areas in place.
8. The proposed first floor flat's position would loosely follow the footprint that is already covered by the existing building below. Although, to the southwest corner of the site, its built extent would be set in slightly from the site's boundaries. This would mean that the levels of outlook, light and privacy currently enjoyed by existing upper-floor residents to the south of the site would not be adversely impacted upon.
9. With respect to the scheme's effects upon the existing occupier(s) of the on-site flat, I first note that there would be a narrow separation distance in place between its rear-facing elevation and the intended east-facing elevation of the proposed flat. The Borough-wide Supplementary Planning Guidance (adopted August 2004, updated 2013) (the SPG) sets out privacy guidelines for new development adjoining existing development. In the case of 2-storey dwellings, a minimum window-to-window distance of 25m is recommended.
10. However, in this case, a single first floor flat above an existing building is under consideration and the east-facing openings that are proposed would be obscure-glazed with alternative outlook for future occupants being provided to the west. Although the proposal would lead to some external use of a newly proposed access stairway, this would realistically be expected to be on an infrequent basis and, particularly when noting the precise position of facing openings, would not pose a significant threat to the privacy of the occupier(s) of the on-site flat.
11. The SPG also indicates that, in the interests of ensuring that reasonable outlook is achieved from the main windows of a habitable room, the facing wall of an adjoining property should be located a minimum distance of 12m away. There are currently 2 main west-facing windows in place serving the on-site flat, one to a kitchen and the other to a bedroom. The Council has

acknowledged that the kitchen is not a habitable room and, as indicated on the proposed plan, the on-site flat is intended to be reconfigured such that the existing bedroom window can be blocked up without prejudicing internal living conditions. The SPG's 12m standard is thus of limited relevance to my considerations here.

12. Nonetheless, the on-site flat's kitchen, whilst not defined as a habitable room, is a space that is realistically used on a regular basis by its occupier(s). The proposed works, being sited in proximity to the kitchen window, would have a limiting effect on the extent of outlook that would be available from it. However, the existing outlook is already constrained to a not insignificant extent by the proximity of existing buildings. Furthermore, it is apparent that a good standard of outlook in an eastward direction is provided from various habitable rooms located elsewhere within the on-site flat.
13. Thus, the proposed flat, being flat-roofed in design, would not appear overbearing and any loss of outlook would not unduly affect the living conditions of the on-site flat's occupier(s). Noting the presence of a 3-storey building adjacent to the site's southern edge, I also find that the proposal would not result in an undue loss of light for the occupier(s) of the on-site flat.
14. Turning to the scheme's effect upon the existing occupier(s) of the neighbouring flat, I note the presence of a relatively generously sized first floor window (the neighbouring window). This is situated to the neighbouring flat's south-facing flank wall and overlooks the appeal site. I understand that the neighbouring window serves a bedroom. It is important to note that the proposed flat would not be located immediately in front of the neighbouring window. It would instead be sited at an oblique angle relative to the window.
15. Outward views from the neighbouring window are already heavily influenced by the 3-storey flank wall of the large building that abuts the southern side of the appeal site. In this context, I do not consider that the introduction of a first floor-level addition in the position that is intended would lead to an undue loss of outlook for the neighbouring flat's occupiers. Indeed, the proposal would not appear overbearing in this setting.
16. The scheme would be expected to result in some loss of light to the neighbouring window. However, the effect in these terms would be tempered significantly by the presence of the large 3-storey building to the south of the site that, to a notable extent, already blocks sunlight from a southerly direction. Notwithstanding the proximity of the proposed flat to the neighbouring window, its intended flat-roofed form and relatively limited scale would, I consider, assist in ensuring that the neighbouring window would continue to receive an appropriate level of light. I am also satisfied that, when noting the positions and specifications of intended new window openings, the proposal would not result in a loss of privacy for the neighbouring flat's occupier(s).
17. For the above reasons, the proposal would not cause harm to the living conditions of existing residential occupiers within and adjacent to the site, having particular regard to outlook, light and privacy. The proposal accords with saved Policies H6, H8 and HD16 of the Borough of Broxbourne Local Plan Second Review (December 2005) and emerging Policies DSC1 and EQ1 of the EBLP in so far as these policies require that development would not materially harm the amenities of existing residents.

Other Matter

18. I have noted from the site's planning history that permission² has, in recent times, been granted for a loft conversion above the on-site flat to create an additional studio flat. This additional flat, which has yet to be implemented, would, I understand, be served by west-facing dormer window openings. Given the roof level at which any future dormer window would be sited, I am satisfied that the living conditions of any future occupier(s) of the studio flat would not be adversely impacted upon by the proposal.

Conditions

19. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the National Planning Policy Framework (February 2019) and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes. Pre-commencement conditions have only been applied where agreed to by the appellant in writing and where necessary to guide initial works on site.
20. In the interests of certainty, a condition specifying the approved plan is required. In the interests of protecting the character and appearance of the area, a condition is reasonable and necessary that secures full details of the intended external surfaces of the development.
21. In the interests of protecting the living conditions of the on-site flat's occupier(s), a condition that secures the blocking up of an existing bedroom window and a minor internal reconfiguration of the flat is both reasonable and necessary. Such works would need to be implemented before any other development commences to ensure that appropriate standards of outlook are achieved. Whilst the Council has suggested that the intended blocking up of a window opening is not covered by the proposal that is before me, the opening in question is shown as blocked up on the submitted plan to be approved and it is positioned within the defined red-line boundary of the appeal site. I am thus content that this matter can be suitably dealt with by way of a planning condition.
22. In the interests of protecting the living conditions of neighbouring occupiers (situated both within and adjacent to the appeal site) and future occupiers of the development, conditions are reasonable and necessary to ensure that both east-facing window openings hereby permitted are obscure-glazed and openable only at a high level, and that the permitted bin store is implemented and operational prior to the first occupation of the development.

Conclusion

23. The proposal accords with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise. The appeal is allowed, subject to conditions.

Andrew Smith

INSPECTOR

² 07/18/0792/F

Schedule of Conditions

- 1) The development hereby permitted shall be begun within a period of 3 years commencing on the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 13354-P014-1st. For the avoidance of doubt, this plan is approved on the basis that the labelled north elevation is in fact the south elevation and that the labelled east elevation is in fact the west elevation and vice versa.
- 3) No development shall take place until full details/samples of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The construction of the one-bedroom flat hereby permitted shall not commence until after the existing on-site first floor flat has been reconfigured in full accordance with the approved first floor plan (13354-P014-1st). For the avoidance of doubt, this reconfiguration shall include the removal and full bricking up of the northernmost existing window opening located upon the existing on-site flat's west-facing elevation.
- 5) Prior to the first occupation of the development hereby permitted, both east-facing window openings hereby permitted, as depicted on approved plan 13354-P014-1st, shall be obscure-glazed and openable only at a height of at least 1.7m above the floor level of the room within which each window is installed. The openings shall be permanently retained as installed thereafter.
- 6) Prior to the first occupation of the development hereby permitted, the bin store, as depicted on approved plan 13354-P014-1st, shall be completed and be operational. It shall be permanently retained as approved thereafter.