



Appeal Decision

Site visit made on 10 March 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2020

Appeal Ref: APP/W1905/D/19/3242830

39 Prospect Road, Cheshunt EN8 9RA

- 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 Keith Bennett against the decision of Broxbourne Borough Council.
 - The application Ref 07/19/0630/HF, dated 17 July 2019, was refused by notice dated 23 September 2019.
 - The development proposed is part two/part single storey rear extension to replace existing single storey extension.
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Decision

1. The appeal is allowed and planning permission is granted for part two/part single storey rear extension to replace existing single storey extension at 39 Prospect Road, Cheshunt EN8 9RA in accordance with the terms of the application, Ref 07/19/0630/HF, dated 17 July 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: BC/1079/1 dated May 2017; BC/1076/3 dated May 2017; BC/1079/5 dated May 2017; and BC/1079/5 dated July 2019.
 - 4) The proposed ground floor window and first floor bathroom window in the western side elevation of the dwelling, as shown on drawing Nos BC/1079/5 dated July 2019 and BC/1076/3 dated May 2017, shall be fitted with obscure glass and shall be non-opening unless the parts of the windows which can be opened are more than 1.7 metres above the floor of the room in which the windows are installed, and shall thereafter be permanently retained as such.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of No 41 Prospect Road with particular regard to its effect on the light and outlook of the neighbouring first floor side bedroom window.

Reasons

3. No 41 Prospect Road has a first floor side bedroom window, which is the sole window that serves the room. It faces the gabled side wall of the appeal property and therefore the outlook from the bedroom window is limited, albeit there are oblique views beyond the rear elevation of No 39.
4. Given the side-facing position of the bedroom window close to the boundary with No 39, good levels of light and outlook to the neighbouring bedroom cannot reasonably be expected. In this respect, I have had regard to the guidance in the Broxbourne Borough-Wide Supplementary Planning Guidance Adopted 2004 (updated 2013) (the SPG), which states that windows to habitable rooms should always be avoided on flank walls where these look direct towards an adjoining property.
5. Nevertheless, the proposed 2 storey rear extension would maintain a gap to the bedroom window of No 41, which, together with its modest depth of around 3 metres; its hipped roof design which would slope away from the window; and its set down from the ridgeline of the main roof, would ensure that the proposal would not cause a significant loss of sunlight, daylight or outlook to the bedroom compared to the existing situation. With regard to the 45 degree line rule, as referred to by the Council, this is not an appropriate guidance tool in this case because the neighbouring window is in a side elevation and the 45 degree line is already infringed by the gabled side wall of No 39.
6. For the above reasons, I conclude that the proposed development would not materially harm the living conditions of the occupiers of No 41 Prospect Road with regard to light and outlook. The proposal would therefore comply with saved Policies H6, H8 and HD16 of the Borough of Broxbourne Local Plan Second Review 2001-2011 (December 2005) and guidance in the SPG, which, amongst other things, seek to ensure that proposals for extensions would not materially harm the amenity or environment of nearby residents. In addition, I have been referred to emerging Policies DSC1, DSC2 and EQ1 of the Broxbourne Local Plan Examination in Public 'Clean' version with modifications December 2019 which have similar objectives. The proposal would also accord with paragraph 127 of the National Planning Policy Framework, which, along with other things, seeks to create places with a high standard of amenity for existing and future users.

Other Matters

7. I have had regard to the letter of objection from the occupier of the neighbouring property, which, in addition to the above main issue, raises concerns including: inaccurate drawings; overlooking from ground floor window; window within 1 metre of boundary so does not comply with fire regulations; first floor bathroom window would result in light and noise nuisance, and foul extract or natural ventilation nuisance; loss of light to living room windows; and, height of garden fence should be increased.
8. The officer's report states that amended plans were received during the course of the planning application showing relevant windows. There is no evidence before me to indicate that the drawings are inaccurate. A planning condition could be imposed to require the ground floor side window to be obscure glazed and permanently fixed shut up to 1.7 metres above the floor level to protect

the privacy of the occupiers of No 41. Fire regulations are covered by other legislation.

9. The proposed first floor side bathroom window would be installed in the side wall of the existing building and could therefore be installed under permitted development rights contained in Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, which constitutes a fall-back position. There are not sufficient grounds to withhold planning permission on the basis of nuisance arising from light, noise or ventilation nuisance from the first floor bathroom window.
10. The ground floor side windows of No 41 are secondary in nature, as stated in the officer's report. The proposal would not cause significant harm to the living conditions of the occupiers of No 41 given that the windows are not the main windows to habitable rooms.
11. The request to increase the height of the garden fence is not a matter for consideration in this appeal.

Conditions

12. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is for the avoidance of doubt and in the interests of certainty. In order to maintain the character and appearance of the dwelling and the surrounding area, I have also imposed a condition requiring the external surfaces of the development to be finished in materials to match those used in the existing building.
13. The Council has suggested a condition to require all windows in the western side elevation of the dwelling to be obscure glazed and permanently fixed shut up to 1.7 metres above the floor level of the rooms in which the windows are installed. This is necessary for the ground floor side window and the first floor side bathroom window to protect the privacy of the occupiers of No 41 due to their close proximity to the neighbouring side windows. However, the first floor side window serving bedroom 3 is further away from the neighbouring windows and so it is not necessary for this requirement to apply to this window as it would not cause a loss of privacy.

Conclusion

14. For the above reasons, and having had regard to all other matters, I conclude that the appeal should be allowed.

C Osgathorp

INSPECTOR