
Appeal Decision

Site visit made on 22 July 2020

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Appeal Ref: APP/W1905/W/19/3244026

R/o 215-217 Turners Hill, Cheshunt, Hertfordshire EN8 9DG

- 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 The Grand Capital Group against the decision of Broxbourne Borough Council.
 - The application Ref 07/19/0833/F, dated 26 September 2019, was refused by notice dated 25 November 2019.
 - The development proposed is erection of a single storey office/store.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single storey office/store at r/o 215-217 Turners Hill, Cheshunt, Hertfordshire EN8 9DG in accordance with the terms of the application, Ref 07/19/0833/F, dated 26 September 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 Site Location Plan, F1 and F2.
 - 3) The parking and turning areas shall not be used for any purpose other than the parking and turning of vehicles.
 - 4) Before the use hereby permitted begins, details of a soft landscaping scheme for the amenity space and the location and specification of the cycle storage shall be submitted to and approved in writing by the local planning authority. The soft landscaping and cycle storage shall be provided in accordance with the approved details prior to the commencement of the first use of the building and thereafter retained and maintained as approved.

Procedural Matters

2. During the determination of the appeal I was made aware that the Broxbourne Borough Council Local Plan 2018-2033 ('the LP') was adopted on 23 June 2020 and I have subsequently been provided with the relevant policies. I am required to determine this appeal on the basis of the development plan and national policy which are in place at the time of my decision. In the interests of natural justice both parties were given an opportunity to comment on the implications of its adoption for the appeal and I have had regard to the relevant comments received in my decision, where necessary.

3. I have removed the reference in the formal decision above to 'r/o 215-217 Turners Hill' as set out on the application form as this is superfluous.

Main Issues

4. The main issues in this appeal are:
- The effect of the proposal on the character and appearance of the host property and area.
 - The effect of the proposal on the living conditions of existing, future, and neighbouring occupiers.
 - Highway safety.

Reasons

Character and appearance

5. The appeal site is formed by a pair of semi-detached, extended 2 storey properties in use as flatted residential accommodation and close to the Turners Hill Local Retail Centre. A parking area and what appeared to me to be an unmown and underutilised amenity space was located to the immediate rear. Vehicular access is to the side of the main building. To the rear I observed hard surfaced parking courts, an access road, and a number of outbuildings/garages, of diverse types and sizes, including a prevailing number of substantial flat roof structures visible above the fence lines of residential properties in Clarendon Road and to the rear of other properties along Turners Hill.
6. The proposal is for a single storey outbuilding to a height of 3 metres and sited in the corner of the existing amenity space. The Council refer to over intensive development but approximately half of that space would be retained, and it would be separated from the main property by the garden and parking court. The building would be proportionate to the scale of what is a much larger and substantial host property and site so that it would not appear cramped or over intensive. Further, there is nothing to suggest that the remaining amenity area could not be a quality space for those residents that need access to such a space, mindful that further details can be secured by condition and the appellant has indicated agreement to a 'green wall' to further mitigate the appearance of the flank elevations.
7. The Council also contend that the flat roof design does not fit in with the Edwardian property, but I observed other similar structures in the rear gardens of comparable properties in the row including the use of render and flat roofs. The building is also not listed, locally listed or within a conservation area. Located solely to the rear and in this inconspicuous corner of the site, proportionate and sited sufficiently away from the main building, it would not cause material harm its character or appearance and the proposal would not be visually incongruous in the streetscene. In such a context it would be an entirely appropriate standard of design.
8. For these reasons, the proposal would not cause harm to the character and appearance of the host property or the area. It would not therefore conflict with Policy DSC1 of the LP which, amongst other things which, requires development to enhance local character and distinctiveness considering

patterns of development, building typology and details, height, and roof form, amongst others.

Living conditions

9. The appeal site slopes gently down toward the rear and the height of the proposed development would not sit significantly above the existing fence line. I also observed many of the surrounding properties had views of similar structures in their own and surrounding gardens and the rear garden that abuts the appeal site contains mature trees and planting.
10. Although a substantial building, there would be limited views of its flank elevation from a small number of ground floor windows in the rear of the host property. However, views at ground floor would still be of the garden, the enhancement of which could be secured by condition. From upper floors (including those of neighbouring buildings) the building would be viewed in association with hard elements such as built form, similar outbuildings and garage structures, various fences, walls, and parked vehicles that prevails. Any visual intrusion from this development would be minimal, glimpsed and not materially harmful to the outlook or enjoyment of neighbouring properties.
11. Due to its height, siting, and presence of mature landscaping along the boundary and in the garden of No. 213 Turners Hill it would not be overbearing or affect the reasonable enjoyment of the rear amenity space of that property. Overall, there would be no material harm to the living conditions of existing, future, or neighbouring occupiers in terms of outlook or any other effects. Accordingly, there would be no conflict with Policy EQ1 of the LP insofar as it requires development to avoid detrimental impacts on amenities.

Highway safety

12. The Council's statement confirms that the appeal site is in an accessible location, a range of alternative transport modes and services are accessible and therefore 10 spaces would be acceptable. Whilst the layout may not meet the Council's expectations and previous guidance, and I accept that it is likely that some users could find it challenging to manoeuvre in and out of these spaces, with care and caution it would not be impossible. Vehicles would also be manoeuvring in and out of the spaces at a very low speed and the proposal would also be in use during the day, a time when demand for the unallocated residential spaces is at its lowest and not all spaces are occupied.
13. The proposed cycle store could limit the width, but I observed vehicular access to the rear was possible even with 2 vehicles parked in existing spaces against and along the northern boundary. Further, details of the cycle storage could be secured by condition so its exact location, specification and design can be agreed. Even if a vehicle may have to pause at the entrance, it would not be for long and my observations of vehicles reversing onto the carriageway from hardstandings to the front of surrounding properties and the likely frequency of access, does not indicate to me there would be any highway safety issues with vehicles entering or existing the appeal site.
14. Taking everything together, the proposed parking arrangements would be acceptable, and the proposal would not cause harm to highway safety. There would be no conflict with Policy TM5 of the LP which requires a sensible and balanced approach to parking spaces based on the nature of the proposal, site

context, accessibility of shops and services. There would also be no conflict with the corresponding highway safety and parking objectives of national planning policy in the National Planning Policy Framework ('the Framework').

Other Matters

15. In coming to this view, I have also considered third party concerns regarding town cramming, parking effects, amenity space and the reference to the Human Rights Act and 'the peaceful enjoyment of one's home', albeit no further details have been provided. The number of users is indicated as being no more than 2, one being part time¹ and the building is for an office/store, operating typical office hours and associated with the main residential use of the site.
16. There is nothing substantive before me which indicates to me that the level of use or type and frequency of activities associated with this building would harm the peaceful enjoyment or occupation of any neighbouring homes. Ultimately, I have concluded that the proposed development would not cause harm to the living conditions of existing, future, or neighbouring occupiers. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 8(1) or Article 1 of the First Protocol.
17. I have also found parking arrangements would be acceptable, no harm to highway safety and in this context the proposal would not result in unacceptable town cramming or adversely affect the use of amenity space. Thus, none of these other considerations, on their own or in combination, alter my view to allow the appeal.

Conditions

18. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. A condition is required to ensure compliance with the approved plans as this provides clarity. A condition is necessary to ensure the proposed parking and turning facilities are retained for that purpose. A condition requiring the submission of a planting scheme and cycle storage location details is also required in the interests of enhancing appearance and living conditions and ensuring access to a range of alternative transport modes. I have worded the condition to require approval of the scheme and implementation prior to the first use of the building which should assist in the consideration and design of the landscaping scheme.
19. The Council have requested a condition restricting the use of the building to prevent additional living accommodation being created, the reason being it would result in an over intensive development. The appellant is clear that this is for an associated office/store for the host property and is not intended as living accommodation. The appellant is entitled to a decision based on the application made and it would remain open for the Council to consider whether any change in future activity or the use of the building results in a material change of use that requires planning permission. I do not consider that such a condition is therefore necessary or relevant and I have not imposed it.

¹ Paragraphs 1.3-1.4 of the Design and Access Statement.

Conclusion

20. For the reasons set out above, the proposal would accord with a recently adopted and up to date development plan, when read as a whole. As such it would also be the sustainable development for which paragraph 11 of the Framework indicates a presumption in favour.
21. Material considerations, including the Framework do not indicate that a decision should be made other than in accordance with the development plan.
22. Having regard to all other matters raised, I therefore conclude that the appeal should be allowed.

Richard Aston

INSPECTOR