
Appeal Decision

Site visit made on 18 November 2020

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2020

Appeal Ref: APP/W1905/D/20/3248109

21 Baas Hill Close, Broxbourne EN10 7EU

- 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 & Mrs M & J Davis against the decision of Broxbourne Borough Council.
 - The application Ref 07/19/0919/HF, dated 29 October 2019, was refused by notice dated 16 December 2019.
 - The development proposed is two storey side extension and single storey rear extension incorporating 3 no. roof lights.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Given the nature of the Council's reason for refusal I carried out a joint site visit to both the appeal property and No. 22 Baas Hill Close. The Council's reason refers to the effect on the living conditions of the occupiers of No. 22 Baas Hill Close and more specifically a '*loss of light to the flank window of a habitable room*'. However, the delegated report also refers to a '*significant effect on outlook*' and having carried out my visit I considered this was capable of being an important consideration in my determination of the appeal. Having requested further information from the parties I am satisfied it needs to be considered and I have had regard to it in my determination of this appeal.
3. It was also brought to my attention during the determination of the appeal that the Broxbourne Borough Council Local Plan 2018-2033 ('the LP') was adopted on 23 June 2020. I am required to determine this appeal in accordance with the development plan and national policy which are in place at the time of my decision. Having been provided with the policies I have determined the appeal on this basis.

Main Issue

4. Given the above, the main issue is the effect of the proposal on the living conditions of the occupiers of No. 22 Baas Hill Close, with particular regard to light and outlook.

Reasons

5. The appeal property is within a residential close containing detached 2 storey dwellings, many of which have been substantially altered and extended,

- including first and ground floor side and rear extensions constructed in proximity to their side boundaries. The appeal property has 3 windows in the side elevation of the first floor facing No. 22. Two are obscurely glazed and one is high level and appeared to be blocked up internally.
6. My attention has been drawn to what the appellant considers would be a similar relationship at Nos. 19 and 20. The issue at the heart of this appeal requires site specific and bespoke considerations and judgements to be made on a case by case basis. I also do not know the accommodation those windows serve, and I observed at my visit they faced a blank wall with the roof of No. 20 sloping away from the windows. Accordingly, the situation and considerations are not directly comparable.
 7. It is a requirement under DSC1 of the LP that all developments should have regard to the Supplementary Planning Guidance ('the SPG') in relation to design. The existing relationship and the proposal would fall short of the minimum separation distance of 12 metres set out in the SPG. Nevertheless, and whilst I have not been provided with the SPG in full, the extract of the Introduction provided by the appellant sets out it is intended to operate in a flexible manner and strict adherence is not always necessary.
 8. In this particular case the window in the side elevation of No. 22 is the sole window serving bedroom living accommodation. The flank wall of the proposal would be constructed to approximately 1 metre from the boundary with No. 22. In turn, the existing first floor flank wall and bedroom window of No. 22 is sited a slightly greater distance from that boundary.
 9. In terms of light effects, no technical assessments are before me, but I observed that the window has a southerly aspect. The depth of the proposed first-floor extension would match the host property and in combination with its gable form, height and width, would bring a much larger expanse of brickwork wall significantly closer to that window. This would reduce the amount of sun light and to a lesser extent, day light into that room. Bedrooms are not just used for sleeping and served by no other openings, the loss of light in this case would make it a gloomier and less attractive space within which to spend time.
 10. Turning to outlook, despite the existing situation and the set back of the extension off the boundary, the immediate and predominant aspect from the window would be of a much larger gable wall. A section of wall and fenestration is part of the existing outlook from that room but sited in greater proximity to the window and of a much larger extent, it would result in an increased sense of enclosure in that room that would be overbearing to the outlook from it.
 11. Given the presence of a large front facing window I am satisfied that there would be no material loss of light or outlook to a high-level lounge window in the ground floor side elevation of No. 22. There is also no objection in principle to the proposal.
 12. Nonetheless and for the above reasons, given the site-specific circumstances of these properties the proposal would cause harm to the living conditions of the occupiers of No. 22 Baas Hill Close, in terms of loss of light and outlook. These significant and unacceptable effects indicate to me that in this regard the proposal would not be a sufficiently high standard of design.

13. The proposal would therefore conflict with Policies DSC1 and DSC2 of the LP and the SPG insofar as they require a high standard of design for all development and that for extensions the design does not impact on the wider setting. The policies are consistent with the Framework and the proposal would also conflict with the Framework's requirement for a high standard of amenity for existing and future users.

Other Matters

14. I have taken account of the appellant's personal statement and acknowledge that pre-application advice was given at officer level and that this informed their decision to purchase the property. However, it would appear that only a virtual site visit was carried out by the officer and whilst no doubt disappointing to the appellant such advice is not binding. An application was made, permission refused, and it is the decision of the Council that I must have regard to. Ultimately the Council's administration and determination of the application has no bearing on the planning merits of this appeal.
15. Nothing substantive is before me to demonstrate there are no suitable alternative designs and that this is the only tenable scheme, as the appellant's statement suggests. The lack of objection from neighbouring occupiers is not determinative as I must consider the amenity of both existing and future occupiers. Consequently, none of these other matters alter my view to dismiss the appeal.

Planning balance and conclusion

16. The extension would provide additional living accommodation and some limited economic benefits during construction. The proposal could also remove the potential for some mutual overlooking between existing windows, albeit this is limited because 2 of those windows are obscured and the third is at a high level. Oblique views of the rear garden of the appeal property from the bedroom would no longer be possible and along with a reduction in a small amount of light pollution from No. 22, these considerations provide some weight in favour.
17. In this case however, none of these other considerations, on their own or in combination outweigh the harm to the living conditions of a neighbouring occupier and the resultant policy conflicts that I have identified.
18. Drawing my conclusions together, the proposal would conflict with a recently adopted and, on the evidence before me, up to date development plan, when read as a whole. Material considerations, including the Framework do not indicate a decision should be made other than in accordance with the development plan.
19. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR