
Appeal Decision

Site visit made on 15 December 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/X0415/W/20/3256151

Bramblings, 43 Denham Lane, Chalfont St Peter, Bucks SL9 0EP

- 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 R Haslam against the decision of Buckinghamshire Council.
 - The application Ref PL/19/3854/FA, dated 4 November 2019, was refused by notice dated 17 June 2020.
 - The development proposed is demolition of existing dwelling and construction of a detached house (amendment to approved consent CH/2017/1788/FA refers) to include a dormer in attic to side elevation for bathroom and to rear elevation for attic bedroom.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and construction of a detached house (amendment to approved consent CH/2017/1788/FA refers) to include a dormer in attic to side elevation for bathroom and to rear elevation for attic bedroom at Bramblings, 43 Denham Lane, Chalfont St Peter, Bucks, SL9 0EP, in accordance with the terms of the application, Ref PL/19/3854/FA, dated 4 November 2019, subject to the conditions in the attached schedule.

Preliminary Matter

2. During my site visit, I noticed that the dwelling under construction differed in a number of minor ways from that detailed in the submitted plans. Given the nature of the changes, amended plans were invited and subsequently consulted upon by the Council. Considered in the context of the Wheatcroft principles¹, I have accepted and considered the amended submitted plans.

Application for costs

3. An application for costs was made by Mr R Haslam against Buckinghamshire Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue is whether the proposal would harm the living conditions of neighbouring occupiers at No 41 Denham Lane in terms of privacy effects.

Reasons

5. Given that the earlier permission had been implemented and substantially completed by the time of my visit, the appeal proposal focusses on the dormer window which has been installed in the side elevation. It measures

1. Wheatcroft Ltd V SSE [1982]

approximately 1 metre by 1.8 metres in size and is fairly typical in scale and form for a flat dormer window. It is sited on the side facing towards the roof plane of No 41 Denham Lane.

6. No 41 Denham Lane is a gable fronted property and has overhanging eaves. Its side elevation contains the obscure glazed window serving the main family bathroom on the first floor. The newly-built appeal dwelling opposite contains a window of a similar height, just offset from the bathroom window in No 41. It is obscure glazed and a condition requires that it remain so and also remain non-opening.
7. The side dormer window is at a higher level than that in the bathroom of No 41. The overhanging eaves partially shield the window from views from the dormer window. With the bathroom window of No 41 fully open, and with occupants using the bath, there is a potential for the perception of being overlooked from the dormer window. However, with a condition requiring the dormer window to remain obscure glazed and non-opening to at least 1.7 metres above floor level, there would be no potential for direct overlooking.
8. Owing to the height of the dormer relative to the window of No 41, the combined effect with the nearby bathroom window, and the proximity of the elevation to No 41 in general, I can understand the neighbouring occupiers' perceptions in relation to feeling overlooked. There is quite an intimate relationship between the two dwellings, their respective bathroom window arrangements and I have no doubt that these factors are very different to the arrangement that existed on site before. However, the angle of view, requirements of the conditions and use of privacy measures, including obscure glazing and secondary measures, such as blinds, can eliminate the potential for direct overlooking and the perception of being overlooked to a satisfactory degree.
9. In relation to the perception of the garden and terrace area feeling more overlooked, I noted a number of windows in the rear elevation of the dwelling under construction which were not obscure glazed which afforded a more direct view of the garden area. Whilst the angle of view would permit a greater degree of overlooking of the terrace to the rear of No 41, the window is not openable and is obscured glazed. The presence of lighting in the room might alert users in the garden to a presence within the bathroom, but this would not be materially harmful or to such an extent that would be irregular in an urban setting where neighbouring dwellings are laid out in such a manner. None of the other external changes incorporated within the amended plans are harmful to the living conditions of the neighbouring occupiers.
10. In view of this main issue, the proposal would not harm the living conditions of neighbouring occupiers with regard to privacy effects and therefore would comply with, in particular, Policy GC3 of the Chiltern Local Plan 1997². This Policy, amongst other things, seeks to protect the amenities enjoyed by the occupants of existing adjoining and neighbouring properties.

² Including alterations 2011, consolidated September 2007 and November 2011

Conditions

11. As the development has already been commenced, there is no need for the standard time limit condition. A condition is necessary to specify the approved plans in the interests of certainty.
12. In the interests of protecting the living conditions of neighbouring occupiers, it is necessary to ensure that conditions require that side windows remain obscure glazed and non-opening. For the same reason, it is also necessary to remove permitted development rights for any subsequent window insertions.

Planning balance and conclusion

13. The proposal complies with the development plan and there are no considerations of sufficient materiality to indicate that a decision should be taken other than in accordance therewith.
14. For the reasons set out above, the appeal is allowed.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan
 - Proposed floor plans and elevations, Ref 17-36-10 REV B
 - Proposed site layout, Ref 17-36-02 REV B dated Sept 2017
- 2) Before the first occupation of the dwelling hereby permitted, the window in the north flank dormer shall be fitted with obscured glazing and shall be non-opening. The window shall be permanently retained in that condition thereafter.
- 3) Before the first occupation of the dwelling hereby permitted, the windows at first floor level in the side elevations shall be fitted with obscured glazing and any part of the windows that are less than 1.7 metres above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order, with or without modification), no windows/dormer windows other than those expressly authorised by this permission, shall be inserted or constructed at any time at first floor level or above in the side elevations of the dwelling hereby permitted.